Love, Marriage, and Family Ties in the Later Middle Ages

International Medieval Research

Volume 11

Editorial Board

Axel E. W. Müller, Alan V. Murray, Peter Meredith, & Ian N. Wood
with the assistance of the IMC Programming Committee

Love, Marriage, and Family Ties in the Later Middle Ages

Edited by

Isabel Davis,

Miriam Müller,

&

Sarah Rees Jones

BREPOLS

British Library Cataloguing in Publication Data

Leeds International Medieval Congress (2001)
Love, marriage, and family ties in the later Middle Ages. – (International medieval research ; 11)
1.Marriage – Europe – History – To 1500 –Congresses 2.Marriage – Europe – History – 16th century – Congresses 3.Kinship – Europe – History – To 1500 – Congresses 4.Kinship – Europe – History – 16th century – Congresses 5.Family – Europe – History – To 1500 – Congresses 6.Family – Europe – History – 16th century – Congresses 7.Marriage customs and rites – Europe – History – To 1500 – Congresses 8.Marriage customs and rites – Europe – History – 16th century – Congresses 9.Europe – Socila life and customs – Congresses
I.Title II.Davis, Isabel III.Muller, Miriam IV.Rees Jones, Sarah
306.8'1'094'0902

ISBN 2503522076

© 2003, Brepols Publishers n.v., Turnhout, Belgium

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without the prior permission of the publisher.

D/2003/0095/62
ISBN: 2-503-52207-6

Printed in the E.U. on acid-free paper.

Contents

Preface ix
SARAH REES JONES

List of Abbreviations xi

Introduction – Unfamiliar Families: Investigating Marriage and the Family in the Past 1
ISABEL DAVIS

Love and Marriage

The Properties of Marriage in Late Medieval Europe: Commercial Wealth and the Creation of Modern Marriage 17
MARTHA HOWELL

Gender Roles and the Marriage Market in Fifteenth-Century England: Ideals and Practices 63
ANNA DRONZEK

Incestuous Marriages: Formal Rules and Social Practice in the Southern Burgundian Netherlands 77
MONIQUE VLEESCHOUWERS-VAN MELKEBEEK

Pictures and Poems of Courtly Love and Bourgeois Marriage: Some Notes on the So-called *Minnekästchen* 97
JÜRGEN WURST

Family Ties

Preface to Section – Shifting Horizons of Expectation: The Late Medieval Family 123
SYLVIA FEDERICO

'We are broderen': Fraternal Bonds and Familial Loyalty within the Fifteenth-Century Romance of *Generydes* 129
MATTHEW HOWARD

Brotherly Love and Brotherly Service: On the Relationship between Carlo and Leonardo Tocco 143
NADA ZEČEVIĆ

Aspekte der Mutter und Tochter-Beziehung in der mittelhochdeutschen Epik: Beobachtungen zu den Trojanerromanen Konrads von Würzburg und Herborts von Fritzlar und dem 'Willehalm' Wolframs von Eschenbach 157
MARIA DORNINGER

Mélusine: Ideal Mother or Inimitable Monster? 181
TANIA COLWELL

Women, Family, and Inheritance in Bologna during the Black Death 205
SHONA KELLY WRAY

Godparenthood, Kinship, and Piety in Tenterden, England 1449–1537 217
ROB LUTTON

Kinship and Family in the Community

Preface to Section – Public and Private Lives in the Medieval Household 237
CHRISTOPHER DYER

Vengeance Is Ours? The Involvement of Kin in the Settlement of 'Cases of Vengeance' in Later Medieval Holland 241
P. C. M. HOPPENBROUWERS

Keeping It in the Family? 277
Domestic Violence in the Later Middle Ages:
Examples from a Provençal Town (1340–1403)
STEVEN BEDNARSKI

Not Just a Family Affair: Domestic Violence 299
and the Ecclesiastical Courts in Late Medieval Poland
MARTHA A. BROŻYNA

Conflict, Strife, and Cooperation: 311
Aspects of the Late Medieval Family and Household
MIRIAM MÜLLER

'Illicit Love' in Medieval Slavonian Cities 331
MARIJA KARBIĆ

Preface

SARAH REES JONES

This volume is one of two containing a selection of proceedings from the Leeds International Medieval Congress in 2001. In 1998 the organizing committee of the Congress chose the theme of '*Domus* and *Familia*' as the special strand for the Congress, shortly after the Centre for Medieval Studies at the University of York had established an informal research group on the Medieval Household and held two successful colloquia. Leeds consequently invited me, as a representative of that Household Group, to act as the principal academic advisor for the strand in 2001. These two volumes of proceedings continue this informal collaboration. The other volume is *The Medieval Household in Christian Europe,* c. *850–c. 1550: Managing Power, Wealth, and the Body*.

The choice of the Latin terms '*Domus* and *Familia*' reflects the difficulty which modern readers have in translating medieval concepts of home, family, and household which enjoyed a very different profile and a much wider set of resonances in both lay and secular society then than they do now. Clearly, however, these are very popular themes of current research. The organizers were nearly overwhelmed by the huge number of applications to contribute to the strand. Even when we narrowed the theme to the secular household and family we still received enough good offers of papers to fill six strands at the Congress (a total of 203 papers), rather than the single strand that was originally envisaged. Professor Martha Howell of Columbia University delivered the keynote lecture, and this is included in the present volume. 2001 was one of the most popular Congresses to date.

The selected proceedings published here represent only a few aspects of the papers presented at the Congress. Of the papers submitted for consideration for publication only a few dealt with periods before 1250, and almost none with any of the non-Christian cultures of the medieval world. It is a particular regret that we were not able to include papers on Jewish and Islamic family life and that desire, to produce such a comparative volume on the history of the medieval family and household, remains one of the unfulfilled hopes of this organizer. Nevertheless, having made the

pragmatic decision to focus on Christian Europe, we have tried to reflect other aspects of the Leeds International Congress in making this selection. The Leeds International Medieval Congress attracts an exceptionally international audience. In both volumes we have therefore tried to include as wide as possible a range of contributions covering Europe from east to west and from north to south. As a result there are several papers here on regions of Europe and their sources which are relatively little known by English-speaking scholars and only rarely dealt with in the main English-language text books used in undergraduate teaching. The Leeds International Medieval Congress is also an important venue for senior graduate students to present their work, and we have included a number of papers by such students, as well as contributions by more established scholars. This volume contains papers which primarily address the nature of affective relationships within the family, and the manner in which such relationships were regulated in more public arenas. The companion volume focuses on the institutional and physical structures of the household, through which such relationships were formed and trained. Naturally this division is somewhat arbitrary, and there are many links between the two volumes. However, we have tried to organize each volume thematically and to highlight some of the major comparative themes through the inclusion of prefaces to each section. We are extremely grateful to Christopher Dyer, Sylvia Federico, Jeremy Goldberg, Jane Grenville, and Felicity Riddy for making the time in their busy schedules to contribute these.

It is a sign of the times that so many authors have wanted to publish in English when this is not their native language. I have been immensely impressed by the Herculean efforts which they and the editors have made in drafting and re-drafting their work in order to achieve this. The authors have shown great patience, efficiency, and even courage in dealing with the many editorial interventions. The editors, Anna Maslakovic, Cordelia Beattie, Isabel Davis, and Miriam Müller, have made a much greater commitment of their time and energy to this project than one would normally expect and have been exceedingly generous in the help that they have offered to authors in the correct use of English. If the English reader finds any awkwardness left in the English expression, we hope that this disadvantage will be outweighed by the value of having so much new work made so easily accessible to them.

Without the work of Anna, Cordelia, Isabel, and Miriam these volumes would never have been published. Both I and, I am sure, the authors are extremely grateful for all their efforts, their sage advice, and their unflagging enthusiasm throughout the editorial process. We have also benefited greatly from the patience, resilience, and support of Axel Müller, Director of the Leeds International Medieval Congress, and Simon Forde, Publishing Manager, Brepols Publishers.

The editors would like to thank the following for their permission to publish images of items in their collections: the Historisches Museum, Basel; the Museum der bildenden Künst, Leipzig; the Museen der Stadt, Köln; the Bibliothèque nationale de France, Paris; the Louvre, Paris; the National Gallery, London; and the Koninklijk Museum voor Schone Kunsten, Antwerp. We are also grateful to the Australian Academy of the Humanities' Publications Committee which has generously helped us to acquire the rights to reproduce some of the images in this volume.

Abbreviations

Annales E. S. C.	*Annales: Economies, sociétés, civilisations*
EETS	Early English Text Society
ES	Extra Series
OS	Original Series
SS	Supplementary Series
OED	*The Oxford English Dictionary*, ed. by J. A. Simpson and others, 2nd edn, 20 vols (Oxford: Oxford University Press, 1989)

INTRODUCTION

Unfamiliar Families: Investigating Marriage and the Family in the Past

ISABEL DAVIS

> It being grown as unfashionable for a book now to appear to People without a Preface, as for a Lady to appear at a Ball without a Hoop-Petticoat; I shall conform to custom for Fashion sake, and not through any necessity: the Subject being both common and universal, needs no Arguments to introduce it, and being so necessary for the Gratification of the Appetite stands in need of no Encomiums to allure Persons to the Practice of it, since there are but few now-a-days who love not good Eating and Drinking; therefore I intirely quit those two Topics;
>
> (Eliza Smith, *Compleat Housewife or The Accomplish'd Gentlewoman's Companion*, 1758)[1]

In contrast to Eliza Smith, I offer the current introduction not for 'Fashion sake' but out of 'necessity' in recognition of the fact that the things which pertain to domestic culture are far from 'common and universal' and frequently need 'Arguments to introduce' them. The word 'now-a-days', in the quotation above, imports a contradiction, acknowledging that particular consumptive practices may well be peculiar to an immediate social context and that what is unremarkable and axiomatic to one generation is merely a local and temporally specific custom to another. Like the cultural associations of 'Hoop-Petticoats', many of the assumptions which Eliza Smith might have included in a more comprehensive preface have been lost, so that the significance of an eighteenth-century household recipe book on quotidian and domestic things is not now as self-evident as she suggests. In this introduction I shall examine the problems of finding out about domestic and familial life, areas which are often considered to be not only 'common and universal' and, therefore, straightforward but also intimate and affective and, therefore, hidden from the historical record.

[1] E. Smith, *Compleat Housewife or The Accomplish'd Gentlewoman's Companion* (repr. London: Studio Editions, 1994), p. 1.

Many of the problems involved in finding out about married and family life in the past are ones that are shared by historians of women. Because women in the past have often been poorly represented within political elites and public life, writing women's history has often involved investigating the alternative, so-called private world of the household. This interest in the household, by feminist scholarship, has provided some theoretical weight to the discussions of what it is possible to discover about domestic lives in the past.[2] Gender scholarship, and in particular work on women, has challenged ideas of commonality and universality, that is, what is natural as opposed to what is socially and ideologically constructed.[3] Further, gender theory has confronted the problem of how far it is possible to research intimate, affective, and hidden things — such as women's 'experience' and subjective identity — given the nature of the evidence available.[4] In this introduction I shall be discussing the articles in this volume, using some of the thinking which has been developed by gender scholars in order to consider, first, the idea that domesticity is culturally constructed, as opposed to 'common and universal' and, secondly, the problems of researching emotional lives in history.

'Common and Universal'? The Ideological Construction of the Family

Social and feminist historians have challenged the academy to broaden its notion of what constitutes historical research beyond questions of politics at the nation state level. Studies of the household have, thus, often been seen as a reaction to the more traditional kinds of history, sometimes described by feminist historians as the history of great men.[5] This has forced a division in the academy between studies of public and private life, a division that is now being reassessed and called into question.[6] It is usually used in a neoclassical way, in which 'public' is broadly associated with the administrative state, sociability, and the market economy and 'private' is understood

[2] Conversely, on the debts which feminist historians have to social historians, see J. W. Scott, *Gender and the Politics of History* (New York: Columbia University Press, 1988), p. 21.

[3] See, for example, L. Segal, *Why Feminism: Gender, Psychology and Politics* (Cambridge: Polity Press, 1999), esp. p. 82, and T. Moi, *What Is a Woman and Other Essays* (Oxford: Oxford University Press, 1999), esp. the title essay.

[4] C. Beattie, 'Meanings of Singleness: The Single Woman in Late Medieval England' (unpublished doctoral dissertation, University of York, 2001), pp. 18–22.

[5] See, for example, Scott, *Gender and the Politics of History*, p. 6 and p. 29, and T. Fenster's 'Preface: Why Men?', in *Medieval Masculinities: Regarding Men in the Middle Ages*, ed. by C. A. Lees (Minneapolis: University of Minnesota Press, 1994), pp. ix–xiii (p. x).

[6] See, for example, A. Vickery, 'Golden Age to Separate Spheres? A Review of the Categories and Chronology of English Women's History', *Historical Journal*, 36 (1993), 383–414 (pp. 389–90), and J. M. Bennett, *Women in the Medieval English Countryside: Gender and Household in Brigstock before the Plague* (Oxford: Oxford University Press, 1987), p. 7.

as the intimate realm of the household.[7] This, of course, serves to detach domestic life from the social realm, developing the uncompromising notion of 'separate spheres'; that is, that men are more associated with the public, social sphere, and women with the private 'natural' sphere.[8]

The public/private divide has recently come under scrutiny by those that have argued that it is artificial and badly defined.[9] Gender reassessments, as well as uncovering evidence for the social and working lives of women, outside as well as inside the home, have been interested in excavating the evidence for men's domestic lives.[10] In this volume, only two articles — by Maria Dorninger and Tania Colwell, who investigate mother-daughter relationships and mothers respectively — are concerned exclusively with women, without discussion of their men folk. Conversely, Matthew Howard and Nada Zečević address brothers and the ideas surrounding brotherhood. Anna Dronzek, in her discussion of marriage in English conduct literature and contemporary letter collections, directly assesses the evidence for gender asymmetry, comparing the differing attitudes to male and female marriage strategies. While Dronzek argues that the advice to men on marriage was concerned

---

[7] J. Weintraub, 'The Theory and Politics of the Public/Private Distinction', in *Public and Private in Thought and Practice: Perspectives on a Grand Dichotomy*, ed. by J. Weintraub and K. Kumar (Chicago: Chicago University Press, 1997), pp. 1–42 (p. 27), and S. Rees Jones, Preface to the section 'The Public Household and Political Power', in *The Medieval Household in Christian Europe, c. 850–c. 1550: Managing Power, Wealth, and the Body*, ed. by C. Beattie, A. Maslakovic, and S Rees Jones (Turnhout: Brepols, forthcoming 2003).

[8] This has also been a trend in other disciplines. See, for a discussion of this in sociology, R. L. Feldberg and E. N. Glen, 'Male and Female: Job Versus Gender Models in the Sociology of Work', *Social Problems*, 26 (1979), 524–38 (passim). The old identifications between women and nature and men and culture are discussed in *Nature, Culture and Gender*, ed. by C. MacCormack and M. Strathern (Cambridge: Cambridge University Press, 1980).

[9] See, for example, Weintraub, 'The Theory and Politics of the Public/Private Distinction', passim.

[10] For studies of women's work, see, for example, P. J. P. Goldberg, *Women, Work, and Life Cycle in a Medieval Economy: Women in York and Yorkshire, c. 1300–1520* (Oxford: Oxford University Press, 1992); B. A. Hanawalt, ed., *Women and Work in Pre-Industrial Europe* (Bloomington: Indiana University Press, 1986); and M. Mate, *Women in Medieval English Society* (Cambridge: Cambridge University Press, 1999). For discussions of men and the domestic sphere, see, for example, J. Tosh, *A Man's Place: Masculinity and the Middle-Class Home in Victorian England* (New Haven: Yale University Press, 1999); S. Rees Jones, 'Household, Work and the Problem of Mobile Labour: The Regulation of Labour in Medieval English Towns', in *The Problem of Labour in Fourteenth-Century England*, ed. by J. Bothwell, P. J. P. Goldberg, and W. M. Ormrod (York: York Medieval Press, 2000), pp. 133–53; P. J. P. Goldberg, 'Masters and Men in Later Medieval England', in *Masculinity in Medieval Europe*, ed. by D. M. Hadley (London: Longman, 1999), pp. 56–70, and I. Davis, 'Work, Sexuality and Urban Domestic Living: Masculinity and Literature, *c*. 1360–1420' (unpublished doctoral thesis, University of York, 2002).

to see them protected in terms of their public role and social reputation, she maintains that this was not because marriage and domestic life were less significant for men than for women, but rather because, like the rationale for Eliza Smith's cookery book, they were not considered necessary to remark upon. In the companion volume, *The Medieval Household in Christian Europe, c. 850–c. 1550: Managing Power, Wealth, and the Body*, there are articles — such as Cordelia Beattie's — that address the issue of men's household roles.[11] Numerous other articles in these two volumes look at both men and women, comparing and contrasting medieval gender assumptions about how domestic and familial life ought to have been conducted.

It has been argued, in a slightly different attack on the dyadic distinction between the public and the intimate spheres, that they are inseparably related and, crucially for this book, that the family is not only permeable to social forces but a central social institution which helps to shape ethical and cultural values. For example, Patricia Skinner in her latest book has argued that the 'feminine, supposedly private realm' was irrevocably interconnected, through legislation and so on, to the organization of the state.[12] It transpires, then, as several essays in this collection and its companion volume show, that families are much more integral to society, polity, and economy than has always been acknowledged. Both Martha Howell and Miriam Müller, in this volume, argue that in agrarian communities the family is closely connected with a large communal support network. Howell argues, further, that when some of those communities lost their dependence upon real estate, there occurred a significant shift in the ways in which households and marriages were formed. A group of essays in the companion volume similarly focuses on the symbiotic relationships between the household and the public arena, which contribute to the formation of civic identity, inform market movements, and influence political decision making.[13]

According to Christopher Dyer, in this volume, it is the interaction between the family and the larger community which 'opens the book' for modern researchers of the family in the past. In a similar vein Steven Bednarski draws attention to some of the practical problems of observing such a distinction between the public and the private, arguing that, since much of our evidence about the family comes from the

[11] C. Beattie, 'Governing Bodies: Law Courts, Male Householders, and Single Women in Late Medieval England', in *The Medieval Household in Christian Europe*, ed. by Beattie, Maslakovic, and Rees Jones.

[12] P. Skinner, *Women in Medieval Italian Society, 500–1200* (Harlow: Longman, 2001), p. 191.

[13] See, I. Benyovsky, 'Noble Family Clans and their Urban Distribution in Medieval Trogir', B. Visentin, 'Chiesa, famiglia e corte: espressioni materiali della cultura politica longobarda', C. F. Weber, 'Formation of Identity and Appearance of North Italian Signoral Families in the Fourteenth Century', and Rees Jones, Preface to 'The Public Household and Political Power', in *The Medieval Household in Christian Europe*, ed. by Beattie, Maslakovic, and Rees Jones.

intervention by outside and supposedly 'public' bodies, we can surmise nothing about the separateness of the public and private worlds, only their mutual interdependency. The evidence that is produced about the family and its function in past times is often a 'paper trail' left by processes of ritualization and regulation. P. C. M. Hoppenbrouwers indicates in his article the extensive and intricate procedures put in place to limit the violent reactions of families whose members had been assaulted and killed; ritualized legal procedures were designed in order to countervail the powerful forces of familial loyalty. The 'mantle ceremonies' described by Matthew Howard are also pragmatic rituals which sought to rectify the 'problem' of illegitimate children, making them legitimate after their parents' marriage. The rituals that accompanied major rites of passage, such as baptism, marriage, and death, often served the purpose of allowing outside scrutiny of and support for families, which would otherwise be autonomous and secret organizations. Rob Lutton has shown how the practice of naming a child after its godparent at the baptism ceremony was a symbolic gesture that ensured engaged patronage from the spiritual parent, a figure who was external but complementary to the family itself. The church's increasing intolerance towards clandestine marriages, which took up most of the business in the consistory courts in the later Middle Ages, led to an emphasis upon marriage as a religious sacrament, blessed and witnessed in a church, rather than a private contract which, unmarked by ceremony in this way, was eminently more contestable.[14] When these cases came to court a prime piece of evidence for the prosecution was often the exchange of love tokens.[15] The practice of giving gifts, often rings or — as Jürgen Wurst details — wooden boxes, invariably decorated with images and inscriptions about romantic love, are also useful exhibits for the modern historian.

These 'public' gestures are our only windows onto intimate relationships and the compromises that were made between the private arrangements of individuals and the ethical standards of their community. As Claude Lévi-Strauss notes, families are not isolated structures but continually forge links between themselves, which together form the 'social fabric'; conversely there would be no families if society did not already exist to insist upon them as ethical structures and to develop ways of formalizing and regulating them.[16] In particular, prohibitions on incest, which are variously formulated in different cultures, play a central role in 'resisting the

[14] H. Bresc, 'Europe: Town and Country (Thirteenth and Fifteenth Centuries)', in *A History of the Family*, ed. by A. Burguière, C. Klapish-Zuber, M. Segalen, and F. Zonabend, trans. S. Hanbury Tenison, R. Morris, and A. Wilson, 2 vols (Cambridge: Polity Press, 1996), I, 430–66 (p. 435).

[15] See, for example, the marriage dispute in S. McSheffrey, *Love and Marriage in Late Medieval London* (Kalamazoo: Medieval Institute Publications, 1995), pp. 42–43.

[16] C. Lévi-Strauss, 'Introduction', in *A History of the Family*, ed. by Burguière, Klapisch-Zuber, Segalen, and Zonabend, trans. by Tenison, Morris, and Wilson, I, 1–7 (p. 3), and T. Kuehn, *Law, Family and Women: Toward a Legal Anthropology of Renaissance Italy* (Chicago: University of Chicago Press, 1991), p. 4.

separatist tendencies of kinship' and determining the ways in which families are formed and connect to their communities. It is often remarked, and Monique Vleeschouwers-Van Melkebeek reiterates, that medieval understandings of affinity, which extended even to spiritual kinship and relatives as removed as third cousins, were both more restrictive and more complex than their modern counterparts.[17] Further, Vleeschouwers-Van Melkebeek shows, by comparing the evidence from England and the South Burgundian Netherlands, that different cultural attitudes caused the same set of canon law regulations to be variously interpreted and adhered to. These temporal and geographical differences are suggestive of the divergence in family structure and, therefore, the complexion of any given society.

That there has traditionally been a neglect of 'private' family relationships and the lives — of both women and men — in the home compared to, say, political and military events is testament to the humble position they hold in collective assessments; homely things are 'common and universal' in the sense of being mundane and workaday.[18] Housework, because of its association with women's work and because of its lack of financial remuneration, has conventionally been seen as low-status labour, which is of less value than occupations traditionally dominated by men. A similar prejudice has affected research on domesticity; political and military history appear to be of more moment despite the importance of family, and its quotidian routines, in producing and forming social actors who determine policy and practise statecraft. There is also, of course, a big difference between the quality of the evidence that survives for domestic, as opposed to grand political events. What is known about people's intimate lives and domestic routines is either incidentally related or wholly fictional,[19] whereas societies often make a point of recording, often in several different ways, departures of policy or moments of national crisis. As a result less is known about how people courted, married, and educated their children and the expectations they had of these transactions.

The failure of contemporaries to write down domestic things adequately, and a corresponding failure in the modern academy to subject them to analysis, is not only a consequence of their being thought of as humdrum; such omissions are also created by the prevalent idea that domestic things are 'common and universal' in the sense of being 'natural' and timeless. The narrative of family formation — boy meets girl, they fall in love, marry, and have children, choosing to care for them until they are

[17] See, for example, R. H. Helmholz, *Marriage Litigation in Medieval England* (Cambridge: Cambridge University Press, 1974), p. 75, and M. M. Sheehan, 'The Formation and Stability of Marriage in Fourteenth-Century England: Evidence of an Ely Register', *Mediaeval Studies*, 33 (1971), 228–63 (p. 262).

[18] See the entry for 'homely' in *OED*, meanings 4 and 5.

[19] See, for example, D. Renevey, 'Household Chores in *The Doctrine of the Hert*: Affective Spirituality and Subjectivity', in *The Medieval Household in Christian Europe*, ed. by Beattie, Maslakovic, and Rees Jones, on household chores in contemplative literature.

old enough to look after themselves and start their own families — is often taken to be a fact of natural biology.[20] As Martha Howell shows, however, the ideal of marriage, based upon a sophisticated emotional relationship between husband and wife, may be a relatively modern one. Further, this narrative presupposes that the nuclear family is unerringly normative, whereas a wealth of evidence — of the kind presented by Rob Lutton on his article on spiritual kinship and Miriam Müller in hers on the social networks of which family bonds were a small part — shows the ways in which family was imagined in much wider terms in the late medieval period. P. C. M. Hoppenbrouwers too shows how distant and extended kin in later medieval Holland were legally implicated and held financially responsible for the violent crimes of their family members. Nevertheless, the rhetoric of 'natural practice' is invariably deployed in moral discussions of family, marriage, sexuality, and the way in which children are nurtured and educated; that the tree is the ubiquitous image for representing lineage also indicates that family structure is seen in organic terms.

The biological rhetoric of 'blood' and 'stock' can be used ideologically, as indeed it was in the Middle Ages, to reinforce and legitimate class differentials that were contingent, as Martha Howell shows, upon carefully devised inheritance strategies. Although the reproductive processes, around which families coagulate, are often seen to be biological events, they are understood and mediated through cultural forces. For example, Tania Colwell, in her essay on the representation of Mélusine, the serpentine mother in the eponymous French romance, shows how medieval ideas about maternity were informed by and expressed in the terms of contemporary Marian devotion. Furthermore, she shows how this particular conception of motherhood was composed as part of a project by the Duc de Berry to mythologize his dynastic heritage. Maria Dorninger also investigates the ways in which the mother's role, and indeed the daughter's, in Middle High German epic is deeply contingent upon current social norms. Given the way that something seemingly so 'universal' as motherhood is inscribed with culturally specific meanings, the question thus arises, as it has too in the field of women's history, of how far it is possible to find out the 'truth' about people's experience of having children, marrying, bereavement, and so on which are always transmitted to us in the language, and accompanied by the cultural assumptions of those who wrote things down.

Affectivity: Representations and the Vocabulary of Marital and Familial Love

Language and cultural assumptions are most problematic when they claim to reflect biological reality. Roland Barthes described the trick thus:

[20] Lévi-Strauss, 'Introduction', p. 1, delineates a particular anthropological view of the family as being founded upon inalienable biological principles.

> [. . .] fact never has any but a linguistic existence [. . .] , yet everything happens as if this linguistic existence were merely a pure and simple 'copy' of another existence situated in an extra-structural field, the 'real'.[21]

The articles in this book frequently make a distinction between representation and reality, between ethical standards and lived lives, between theory and practice in the past. For example, Anna Dronzek, P. C. M. Hoppenbrouwers, and Marija Karbić distinguish between 'normative' or prescriptive sources (Dronzek investigates conduct literature; Hoppenbrouwers and Karbić focus upon law codes) and sources which provide evidence for practice (letters serve this function for Anna Dronzek; Hoppenbrouwers and Karbić use the judgements and depositions from court cases). As the Barthes quotation illustrates, however, 'fact', 'reality', and 'practice' are confected in linguistic terms and it is now impossible to reconstruct actual lives and experiences from history. The attempt by some feminist historians to track and unearth women's 'experiences' and 'voices' in the past has been challenged by post-structuralist feminists, working with Foucauldian ideas about discourses of power, often referred to as the 'linguistic turn'.[22] They have argued that, although it may be politically desirable to attempt a 'bottom up' history, which attempts to recover something of women's lives, it is impossible to look beyond historical sources, which supply evidence only for ethical standards, as if they were curtains that can be lifted aside. While marriages and families are often represented in ideal and moral terms, in ways that romanticize them, complex emotional negotiations and the problems caused by bodily functions often characterize the experience of living in close proximity to others. R. W. Connell has described the process of making ideological models, which are so separate from the 'real', as 'cognitive purification'.[23] Post-structuralists would argue that it is only representations and ethical models, rather than the variable, complex relationships so dependant upon happenstance and personality,[24] that can be analysed by historians separated by time from the subjects of their research.

---

[21] R. Barthes, *The Rustle of Language*, trans. by R. Howard (Oxford: Blackwell, 1986), p. 138. Within the field of gender studies the word 'sex' referring to the biological sexual difference is often seen as the 'real' behind the linguistic construction of 'gender'. For a discussion and critique, see Moi, 'What Is a Woman?', in her *What Is a Woman and Other Essays*, pp. 30–83 (pp. 30–60).

[22] For a definition of the 'linguistic turn', see *The Johns Hopkins Guide to Literary Theory and Criticism*, ed. by M. Groden and M. Kreiswirth (Baltimore: Johns Hopkins University Press, 1994), pp. 585–87. See, for a discussion of 'the linguistic turn' in gender studies, K. Canning, 'Feminist History after the Linguistic Turn: Historicizing Discourse and Experience', *Signs*, 19 (1994), 368–97, and E. A. Clark, 'The Lady Vanishes: Dilemmas of a Feminist Historian after the "Linguistic Turn"', *Church History*, 67 (1998), 1–31.

[23] R. W. Connell, Gender and Power: Society, the Person and Sexual Politics (Cambridge: Polity Press, 1987), p. 246.

[24] K. Wrightson, *English Society, 1580–1680* (London: Hutchinson, 1982), p. 92.

Although we might recognize that medieval romances, like those discussed by Tania Cowell, Maria Dorninger, and Matthew Howard, are self-consciously fictional, and that conduct literature, wills, and law-codes, as discussed by Anna Dronzek, Shona Kelly Wray, Rob Lutton, Marija Karbić, and P. C. M. Hoppenbrouwers, present a 'wish list' for certain kinds of social and legal action, other sources, which purport to represent 'truth', are similarly constrained by cultural assumptions.[25] Court records in particular, which are investigated by Steven Bednarski, Martha Brożyna, Marija Karbić, Miriam Müller, and P. C. M. Hoppenbrouwers, have no special claim to be 'true' on account of their association with an august institution. Miriam Müller points out the seigniorial bias in her sources, but other factors too prevent them from reporting objective 'fact'. Witness depositions are narratives that are structured in terms, not of what happened, but rather of what a court might be expected to believe or consider acceptable.[26] Martha Brożyna, for example, records cases in which men sought divorces on the grounds that their wives were trying to poison them. The prevailing stereotypes and misogynist mythologies about women structured their testimony. Similarly women seeking divorces, recognizing that one of the only grounds was cruelty, complained of sadistic husbands who exacted excessive punishments. This is not to say, of course, that there was no domestic violence in medieval Poland; indeed the expectation deponents had that their story might be credible to a consistory court rather suggests that there was. These cases, and those discussed by other contributors to this volume, illustrate ethical standards rather than lived lives: the level of violence that was considered unacceptable and, at least, an idea of the 'moderate' level which was tolerated, even recommended, for disciplinary purposes.

Miriam Müller, Steven Bednarski, and Martha Brożyna all point out the obligation of medieval husbands and parents to keep their wives and children under control with the use of corporal punishment if necessary. Such cultural imperatives were variously written down and imparted as advice along with all the other ideologically specific standards of the day. These ideologies were not, of course, simply imposed from above but were propagated on a microlevel, being strongest where those they affected internalized them. Anna Dronzek writes about the ways that women in late-fourteenth- and early-fifteenth-century England were socialized to conspire with the superordination of men. Maria Dorninger argues that women were discursively encouraged to define their lives in terms established by their communities. Felicity Riddy, in her contribution to *The Medieval Household in Christian Europe*, discusses the process whereby the young woman is inculcated to 'curtail her freedom in

[25] See, Skinner, *Women in Medieval Italian Society*, p. 3, on these sources as a representation of the 'collective psychology'.

[26] P. J. P. Goldberg, 'Fiction in the Archives: The York Cause Papers as a Source for Later Medieval Social History', *Continuity and Change*, 12 (1997), 425–45.

a life of domesticity'.[27] Cognitive purification is, in this way, often driven from below as individuals find romantic appeal in ethical models which are also socially convenient.[28] Such social conditioning is not, of course, peculiar to the Middle Ages and academic commentators have long noted the impossibility of brushing our own assumptions aside in order to express an objective truth.

Although historical research is always complicated by its being refracted through the subjective experience of an interpreter, this problem is more obvious and most acute when researching familial bonds and domestic life; homely things touch us by their interaction with our own intimate lives. We are almost all socalized in families, and this experience is our first and most formative.[29] Our sentiments about parenthood, children, marriage, and so on necessarily inform our academic histories of the same. Such studies are made more difficult because of our supposed 'familiarity' with the subject. The word 'familiar' comes, of course, from the word 'family' although it is now rarely used to refer to the domestic unit. The *Oxford English Dictionary* gives, as a definition for the word 'familiarity': 'well-known through constant association' and 'homely, plain and hence easily understood', definitions which are, I suggest, non sequiturs.[30] It is not necessarily the case that we best understand those things that are closest to us. Indeed, the inconsistent and protean nature of the closest human bonds continually reinforces the fact that even the wisest are unable to analyse their emotional attachments objectively. What is more, the closer a relationship is, the more intricate are the negotiations that go into making it function effectively.

Graham Allan and Graham Crow have written about the difficulty of producing an account of the modern family which relies upon a vocabulary which is used somewhat imprecisely in the social groups under investigation.[31] Words like 'home', 'family', 'household', and so on do extensive and varied cultural work, which makes them problematic when used in an analytic context. The emotional nuances carried by some of these evocative words, or indeed images, are difficult to identify exactly, let alone discard. Because sentiment teaches us to 'unflinchingly applaud all songs containing the words country home and mother', we cannot find a vocabulary for a dispassionate investigation of the domestic sphere.[32] The passage of time deepens

---

[27] F. Riddy, Preface to section 'The Moral Household', in *The Medieval Household in Christian Europe*, ed. by Beattie, Maslakovic, and Rees Jones.

[28] See, for example, the discussion of nineteenth-century ideals of domestic femininity in Vickery, 'Golden Age to Separate Spheres?', p. 387.

[29] Lévi-Strauss, 'Introduction', p. 3.

[30] *OED*, definitions 1 and 6.

[31] G. Allan and G. Crow, *Families, Households and Society* (Basingstoke: Palgrave, 2001), p. 1.

[32] The quotation comes from e. e. cummings, *Selected Poetry, 1923–1958* (London: Faber and Faber, 1960), p. 11.

this problem of language as Sarah Rees Jones has pointed out in her contribution to the companion volume, arguing that defining the household in modern scholarship has proved to be problematic. P. C. M. Hoppenbrouwers laments the existence of adequate terminology to differentiate between branches of the extended family, indicating that the fine distinctions understood by the medievals can no longer be identified. Jürgen Wurst notes that it is only relatively recently that modern commentators have invented the term *minnekästchen* to refer to the little wooden boxes which were given as love tokens in the Middle Ages. Such terminology predetermines the ways in which these objects are now viewed. In this way we must not only be wary of the distorting influence of our own experience, but must also take on the cultural assumptions of previous generations of scholars who interpreted the medieval sources.[33]

As the words for domestic things have changed, so too have the notions of normative patterns of residence and family ties. The origins of the modern word 'family' — meaning 'The group of persons consisting of the parents and their children, whether actually living together or not; in wider sense, the unity formed by those who are nearly connected by blood or affinity' — reveals a dramatic shift in the conceptualization of domestic organization over time.[34] It comes from the Latin word *famulus*, meaning servant or retainer, which later became *familia*, meaning household but with a similar stress upon the servant body.[35] This linguistic discontinuity testifies to the impossibility of producing a 'natural history' of the human household, whose composition is dramatically altered over time and place. The geographical specificity of many of the articles in this volume indicates, for example, that what may have been true, as Martha Howell argues, in northern Europe was distinctly different in the Mediterranean regions. Martha Brożyna records the witness statement of a young woman who complains that her lover 'beat me as if I were his wife'. This starkly illustrates that marriages in the modern West and those in medieval Poland are vastly divergent institutions and the role of wife undertaken with none of the same expectations. Such differences can be discerned, not only in attitudes to violence (as shown by Brożyna, Bednarski, and Müller), but also (il)legitimacy (illustrated by Howard and Zečević); indeed, Zečević records that Carlo Tocco, the Italian governor of a Greek island, bequeathed belongings to his nephews rather than acknowledge his own illegitimate children as his heirs. Tania Colwell's article, which discusses the ways in which perfect motherhood and abject monstrosity might not have been considered philosophically incompatible qualities, reveals very

[33] For a discussion of the impact of nineteenth-century medievalism on modern research on the Middle Ages, see K. Biddick, *The Shock of Medievalism* (Durham: Duke University Press, 1998), pp. 1–5.

[34] *OED*, definitions 2 and 3, and L. Davidoff, M. Doolittle, J. Fink, and K. Holden, *The Family Story: Blood, Contract and Intimacy, 1830–1960* (London: Longman, 1999), p. 8.

[35] *OED*, definition 1.

different assumptions about female bodies and women's domestic roles in late medieval France.

As Sylvia Federico points out in her preface to the second section of this volume, we cannot think about the past only in terms of difference; our understandings of the family are a sedimentation of ideas which have gone before. Just as medieval notions of brotherhood, as Nada Zečević notes, may have been based upon antique ideals of fraternal bonds, our own assessments of family ties bear a relation to those that have preceded them. Martha Howell shows that modern ideals of marriage have their origins in the growth of bourgeois commercial culture and the switch away from an emphasis on immovable, that is, landed wealth, which began in late medieval northern Europe. Failing to recognize Giovanni Boccaccio's pessimistic portrait of family disintegration during the Black Death, Shona Kelly Wray has found in her research on the probate evidence in Bologna that individuals continued to bequeath to family members rather than donating to religious houses, the response which one might expect from a community faced with the spiritual challenges posed by the pandemic. Although hierarchically structured and dependent upon economic, legal, and political orthodoxies, the medieval family, these essays remind us, was not necessarily a wholly pragmatic and loveless institution.

Although there are many overlaps and connections, this book is broadly distinguished from the companion volume by its focus upon emotional ties — marriages and familial bonds — rather than the bricks and mortar and practical administration of the household. One way in which commentators try to identify affectionate relationships is to find those bonds that are forged independently of economic contracts and political alliances. Such a search carries with it the assumption that love cannot be accompanied by self-interest, that marriages that are made with economic or political advantage in mind cannot represent the kind of love match which we have come to see as the defining feature of modern marriage. Martha Howell traces the economic shifts which facilitated the development of companionate marriage. Sylvia Federico cautions, however, against dismissing medieval marriages as affect-less unions on account of their central economic and social relevance.[36] We should also note that sophisticated emotional marital bonds emerged at the expense of the bond between parent and child. In order that a new family can be created and a new marriage formed, two families disintegrate, an event that represents a possible site of tension between the bond between parent and child and that between the child and his or her spouse.[37] Rob Lutton shows how medieval people may have used the

[36] These arguments implicitly respond to a body of secondary literature that has viewed medieval marriage as coercive, brokered by families to further their interests in terms of property and dynasty. See, for example, L. Stone, *The Family, Sex and Marriage in England, 1500–1800* (London: Penguin, 1977), esp. pp. 70–71, E. Shorter, *The Making of the Modern Family* (New York: Basic Books, 1975), pp. 54–65, and D. Aers, *Chaucer* (Brighton: Harvester Press, 1986), p. 71.

[37] Lévi-Strauss, 'Introduction', pp. 3–4.

practice of godparenthood to ease these discontinuities and smooth the transition of young people from their natal homes into their married households, a practice that is revealing of the emotional significance of medieval spiritual kinship. Matthew Howard and Nada Zečević both stress the ways in which brotherhood was a pragmatic social role as much as a sophisticated emotional bond, suggesting that it might be politically advantageous to represent oneself as a good brother, which clearly carried positive cultural associations. However, while thinking about the relationships between emotion, property, and political expediency, we might do well to consider how far our own emotional attachments are paralleled by the flow of money and are forged for mutual self-interest.

Several of these essays note that familial or marital relationships appropriate the terminology and the standards that are more readily associated with other kinds of relationships, such as the bond between lord and servant. This suggests that relationships between brothers (as described by Nada Zečević) or mothers and daughters (as described by Dorninger) were more pragmatic bonds than they are considered to be today. However, there is some evidence to suggest that relationships between medieval masters and their servants, which might be provisionally classed as employment relationships, were more highly valued and provided more emotional satisfaction than one might expect. Indeed, many have written about the intensity, tenderness, and even glamour of service bonds at a time when service was 'the dominant ethic'.[38] Similarly the medievals represented their most emotional experiences in spiritual terms which may also seem antithetical to us in a less than religious age. Jürgen Wurst notes the representational similarities between boxes which were given as love tokens and religious reliquaries; Tania Colwell adumbrates the ways in which medieval motherhood was epitomized, perhaps somewhat paradoxically to us moderns, by the virginal figure of Mary; Rob Lutton shows how being a godparent was a role taken on with a consistent ardency which may also seem unfamiliar.

The current fashion in the academy to think about families and households in the past is a response to the growing recognition that while things domestic may have been thought of as humdrum, unremarkable, 'common', or 'universal', this in fact is very far from being the case. The essays in this volume hope to contribute to this growing body of research, generating profound questions about what marriages and families meant to those in the Middle Ages, acknowledging that domestic routines and affective bonds were very differently constructed in a world with a high degree of institutionalized celibacy, a Christian understanding of love that was based upon pain and sacrifice, and inheritance practices which subordinated sisters to their brothers and younger children to their older siblings.

---

[38] R. Horrox, 'Service', in *Fifteenth-Century Attitudes: Perceptions of Society in Late Medieval England*, ed. by R. Horrox (Cambridge: Cambridge University Press, 1994), pp. 61–78 (esp. p. 61). See also *Concepts and Patterns of Service in the Later Middle Ages*, ed. by A. Curry and E. Matthew (Woodbridge: Boydell Press, 2000).

Love and Marriage

The Properties of Marriage in Late Medieval Europe: Commercial Wealth and the Creation of Modern Marriage*

MARTHA HOWELL

Historians have long agreed that the late Middle Ages and early modern period — roughly the five hundred years between about 1200 and 1700 — gave birth to what has been labelled the companionate marriage, a form of conjugality grounded in personal choice, intimacy, and desire rather than, as had been the venerable practice, in property or more generalized socio-political relations. While there is little disagreement about the existence of this transformation in marriage during the period, there remains a great deal of uncertainty about its social location, its sources, and its chronology. This essay returns to these debates, proposing that the story of the companionate marriage's development was embedded in a history of property that has hitherto been given too little attention. During the years that closed the Middle Ages and began the modern epoch, Europe's traditional economy was unseated by an explosion of commercial wealth, most of it originally 'movable' wealth to an extent land itself was not — not in literal fact, not in law, and not in the social and cultural imagination. It was among the people at the centre of this economic reorganization that this concept took clear shape. It was then that marriage, long a sacrament and in some narratives already associated with sexual desire, mutuality, friendship, and exclusivity, acquired its normative character and took firm social root.

* My thanks to Peter Arnade, Elaine Combs-Schilling, Thérèse de Hemptinne, Nicholas Dirks, Jean Howard, Sherry Ortner, Walter Simons, Cornelia Small, Judith Walkowitz, and Edward Whitney for careful readings of this essay. Considerably earlier versions were given as papers at the Southern Medieval and Renaissance Conference, Brown University, The Medieval Club of New York, and Columbia University's Institute for Research on Women and Gender. This essay is adapted from the keynote lecture at the International Medieval Conference, Leeds, 2001.

Companionate Marriage

The term companionate marriage is a capacious one, capable of acquiring altered valences in new settings, but since the phrase first entered the scholar's vocabulary, historians have consistently used it to refer to a loosely defined but well-understood kind of institution. To put it simply, the companionate marriage that emerged in this period was a union between an adult woman and man who had freely chosen one another in pursuit of more than material support, progeny, and socio-political advantage, long the motivations for marriage decisions. Couples in a companionate relationship during this age had hardly jettisoned these goals, for the property exchange remained — and would long remain — the sine qua non of a proper marriage. To a significant degree, however, they also married for love — romantic love — in expectation of companionship, friendship, mutual aid, and sexual fulfilment and with the intention of devoting much of married life to nurturing their offspring. Based on choice and deep personal commitment, the bonds between husband and wife were tight, and their marriage was to last until the death of one spouse. No longer principally in the service of community and kin interests, marriage thus became chiefly a matter of individual volition, a 'partnership' between equals, a vehicle for personal growth for man and woman alike, and the means of transmitting specific values to the next generation. In short, modern.[1]

This kind of marriage, once achieved, marked a dramatic shift in European culture, for marriage transformed from a union undertaken principally for socio-political reasons into one pursued for personal objectives, where the personal was associated with cultivation of the self. That does not mean, however — and historians have not meant it to mean — that medieval marriages were inevitably unhappy or affect-less. Husband and wife in, say, 1000 or 1200, could be attentive to one another's needs and were by no means indifferent to their spouse's person; occasionally they even spoke of conjugal love. These sentiments were not, however,

[1] The literature on the companionate marriage is vast. Lawrence Stone's *The Family, Sex and Marriage in England, 1500–1800*, abridged edn (New York: Harper and Row, 1977) provides perhaps its fullest definition. Also see Edward Shorter, *The Making of Modern Family* (New York: Basic Books, 1975); Edmund Leites, 'The Duty to Desire: Love, Friendship, and Sexuality in Puritan Theories of Marriage', *Journal of Social History*, 15 (1982), 383–408; Alan MacFarlane, *Marriage and Love in England: Modes of Reproduction, 1380–1840* (Oxford: B. Blackwell, 1986); James F. Traer, *Marriage and the Family in French Law and Social Thought* (Ithaca, NY: Cornell University Press, 1980); and Richard Watt, *The Making of Modern Marriage: Matrimonial Control and the Rise of Sentiment in Neuchâtel, 1550–1800* (Ithaca, NY: Cornell University Press, 1992). Recent surveys include Ralph A. Houlbrooke, *The English Family 1450–1700* (London: Longman, 1984), largely superceded by Peter Fleming, *Family and Household in Medieval England* (Basingstoke: Palgrave, 2001). The 'partnership' aspects of such marriages are particularly emphasized in Michael Mitterauer and Reinhard Sieder, *The European Family: Patriarchy to Partnership from the Middle Ages to the Present* (Oxford: Basil Blackwell, 1982).

the principal motivations for marriage, and medieval people did not associate marriage with the deep emotional attachments that would later give the companionate marriage its normative character.

Although historians agree that the early modern period was the crucial one in this development, for it was then that the companionate marriage acquired the array of elements that define it, the companionate marriage was not an institution with a founding date and a founder. It is an ideal type, a heuristic device coined by scholars to characterize an important shift in marriage practices and in the cultural meaning of marriage, and it refers to a mix of meanings and practices that evolved over time, took new shape in new hands, and had no single beginning. It is not, however, simply a historian's device. The term denotes an identifiable ideological production that served — and continues to serve — particular class and gender interests, functioning as a standard against which marriage itself was measured. As an ideological production, it was the creation of specific social actors whose interests were served by this disparate set of norms. This paper focuses on the material bases of that ideological construction.

Essential elements of the companionate marriage were put in place during the High Middle Ages when canon lawyers worked out rules defining marriage and ecclesiastical courts mobilized to enforce them. Three steps were involved. First, the church granted the prospective couple the power to marry by mutual consent alone. While this radical move did not go unchallenged, in the end the principle that marriages required the free consent of each spouse, without the necessity of parental approval — even in the face of parental opposition — was established. Outsiders, even parents and guardians, were now positioned simply as witnesses to or, at best, enablers of the union. Second and third, the medieval church rendered marriage monogamous and indissoluble. These changes also met stiff resistance, from all levels of society. Both elite males who were accustomed to changing wives as political or personal needs dictated and ordinary people who were sometimes casual about the status of marriage itself sought to circumvent these rigid standards, but the rules were steadily enforced from about the thirteenth century forward.[2] Until the sixteenth century, when Protestants allowed divorce in certain cases, western Europeans possessed few effective means for ending a bad marriage and entering a new one, all of them expensive or inordinately clumsy. On the issue of monogamy, the established

[2] Julliette M. Turlan, 'Recherches sur le mariage dans la pratique coutumière, XII^{e}–XVI^{e} siècles', *Revue historique de droit francais et étranger*, 4th series, 35 (1957), 477–528, demonstrates that French customary law, upheld by civil courts, resisted church law on several issues: unconsummated marriages, when consent had been given as minors, were not considered marriages; marriages made without parental consent were not honored; the church's requirement that a 'public' wedding was the only legitimate maker of marriage was not consistently upheld (although Turlan also notes that church rules regarding publicity were in that period rather imprecise).

Protestant churches and Catholics were united: extra-marital sex was consistently condemned as adultery, and it was regularly, if inconsistently, prosecuted.[3]

Clerical teachings concerning the spiritual value of conjugal love tracked the history of church law, more explicitly condoning and even promoting marriage as official doctrine was codified. Although the doctrine established in the early centuries of the Latin church's history was ambivalent about marriage as well as about sexual pleasure in marriage, by the High Middle Ages theoreticians and officials alike, along with secular priests, had come to regard marriage as more than a necessary accommodation to human weakness. By the twelfth century, when canon lawyers had put in place the chief elements of marriage law, learned churchmen and preachers both consistently celebrated marriage's role in the earthly life, even if they typically offered only cautious endorsement of marital sex. By the thirteenth century, marriage was widely considered a sacrament, and although the Protestants would later desacramentalize marriage, they by no means reduced its spiritual significance.[4]

---

[3] On the history of medieval ecclesiastical marriage law, see the work of Michael Sheehan, conveniently collected as Michael M. Sheehan, CSB, *Marriage, Family, and Law in Medieval Europe*, ed. by James K. Farge (Toronto: University of Toronto Press, 1996); James Brundage, *Law, Sex, and Christian Society in Medieval Europe* (Chicago: University of Chicago Press, 1987); Adhémar Esmein, *Le marriage en droit canonique*, ed. by R. Genestal, 2 vols (Paris: Recueil Sirey, 1928); Beatrice Gottlieb, 'Getting Married in Pre-Reformation Europe: The Doctrine of Clandestine Marriage and Court Cases in Fifteenth-Century Champagne' (unpublished doctoral thesis, Columbia University, 1974); Christopher Brooke, *The Medieval Idea of Marriage* (Oxford: Clarendon Press, 1989); Frederick Pedersen, *Marriage Disputes in Medieval England* (London: Hambledon and London, 2000); and Turlan, 'Recherches sur le mariage dans la pratique coutumière'.

Jack Goody's widely read *The Development of the Family and Marriage in Europe* (Cambridge: Cambridge University Press, 1983) argued that the church's insistence on consent, monogamy, and indissolubility served both to distribute property outside closed kin networks and leave it under the control of widows and widowers who were not only empowered but also inclined to pass property on to the church at their deaths. While most scholars have acknowledged that the rules had this effect, many have vigorously resisted the implication that 'the church' devised them for this purpose. In addition, some have quite reasonably pointed out that the 'churchmen' in question were members of the same aristocratic families whose interests they presumably shared and thus would not have consciously opposed kin interests.

On the early modern period, see in particular P. Bels, 'La Formation du lien de mariage dans l'église protestante française (XVI^{e} et XVII^{e} siècle)', in *La Femme: Recueils de la société pour l'histoire comparative des institutions*, vol. XII (Brussels: Editions de la Librairie encyclopédique, 1962), pp. 331–44; Sarah Hanley, 'Engendering the State: Family Formation and State Building in Early Modern France', *French Historical Studies*, 16 (1989), 4–27; and John Witte, Jr., *From Sacrament to Contract: Marriage, Religion, and Law in the Western Tradition* (Louisville: Westminster John Knox Press, 1997).

[4] See Witte, *From Sacrament to Contract*, for a brief history of these developments. As he put it, the sacramental model of marriage was the product of the twelfth and thirteenth centuries, when canonists 'taught three broad perspectives on marriage. Marriage was conceived

The moral and personal value of marriage also featured in various expressions of secular culture. The romances, songs, and poems that circulated in aristocratic courts from the High Middle Ages forward provided Europeans an enduring image of romantic love, along with the language to express it. While formulated as part of a narrative about heterosexual love outside marriage — indeed, it typically described adulterous passion — the trope itself was later easily inserted into a story about conjugal attachment.[5] Even the plays, tales, and farces about marriage that belonged to medieval Europe's comic literature and were more closely associated with its ordinary people helped to formulate the new marital ideal. For all their misogynist and anti-marriage themes, these texts, with their obsessive attention to conjugal love, marriage, domesticity, and the relations between husband and wife, focused Europeans on marriage's emotional content and in the end gave conjugality new complexity and depth.[6]

---

at once (1) as a created, natural association, subject to the laws of nature; (2) as a consensual contract, subject to the general laws of contract; and (3) as a sacrament of faith, subject to the spiritual laws of the church. [. . .] It was the sacramental quality of marriage, however, that provided the theological and legal integration of these three perspectives into a systematic model of marriage' (p. 93).

[5] As Michael Camille noted (*The Medieval Art of Love: Objects and Subjects of Desire* (London: Lawrence King, 1998)), in the medieval literary tradition, marriage was positioned as incompatible with romantic love, even as its antithesis.

[6] Scholars, especially literary scholars, have in recent decades produced a sophisticated body of work investigating the way marriage and conjugal love were represented in a wide range of medieval texts. Old debates about the meaning of courtly love have been replaced by subtle readings of theological, legal, and imaginative texts that struggled to understand and assess love, marriage, and their relationship. Representative studies include Neil Cartlidge, *Medieval Marriage: Literary Approaches, 1100–1300* (Woodbridge: Brewer, 1997); Jean H. Hagstrum, *Esteem Enlivened by Desire: The Couple from Homer to Shakespeare* (Chicago: University of Chicago Press, 1992); *Liebe, Ehe, Ehebruch in der Literatur des Mittelalters: Vorträge des Symposiums von 13. bis 16. Juni 1983 am Institut für Deutsche Sprache und Mittelalterliche Literatur der Justus Liebig-Universität Giessen*, Beiträge zur deutschen Philologie, 58 (Giessen: W. Schmitz, 1984); *The Olde Daunce: Love, Friendship, Sex, and Marriage in the Medieval World*, SUNY Series in Medieval Studies (Albany: State University of New York Press, 1991); Michael Dallapiazza, *Minne, husere und das ehlich leben: zur Konstitution bürgerlicher Lebenmuster in spätmittelalterlichen und frühhumanistischen Didaktiken*, vol. I of *Europäische Hochschulschriften*, Deutsche Literatur und Germanistik, 455 (Frankfurt am Main: Lang, 1981); Ulrike-Marianne Schulz, *Liebe, Ehe und Sexualität im vorreformatorischen Meistersang: Texte und Untersuchungen*, Goppinger Arbeiten zur Germanistik, 624 (Goppingen: Kummerle, 1995); Henry Ansgar Kelly, *Love and Marriage in the Age of Chaucer* (Ithaca, NY: Cornell University Press, 1975), Leah Otis-Cour, *Lust und Liebe: Geschichte der Paarbeziehungen im Mittelalter* (Frankfurt am Main: Fischer, 2000).

The Companionate Marriage's History: The Search for Explanations

Literary and cultural studies have provided us with a rich understanding of the materials used to construct the new concept of marriage. They have not, however, resolved persistent questions about the chronology, the social location, the geography, and even the historical significance of the transformation. An account based on developments in religious and literary culture alone can not predict how the full array of meanings and practices that identify the companionate marriage was cobbled together; it does not tell us which social groups would have taken the lead, which would have followed, and why; it does not tell us how the ethic changed shape as it took hold in a new social location, entered a new age, or acquired another layer of meanings. In short, it does little to account for complex empirical record, for this rather elastic concept, although put in place in the early modern period, has morphed as it has traveled from place to place, class to class, and epoch to epoch. Retrospectively, the story is clearer, for by the seventeenth or certainly by the eighteenth century this form of marriage had become an essential element of middle class identity. Because it so obviously has helped to produce and sustain the socio-political and gender hierarchy of the modern West, the companionate marriage's history can be told in terms of what it became, a vehicle for bourgeois self-identification and tool of class hegemony.[7]

Seen from the point of view of the fourteenth, fifteenth, or sixteenth century, however, the story is much harder to plot. During that long period, it is impossible to speak of a 'middle class' in a useful sense; we can speak only of 'middle classes' or, perhaps better still, of 'middling sorts' — artisans, merchants, professionals, and a rural yeomanry, people who often shared little except their common distinction from both landed aristocrats and the peasantry. If we look deeper into the past, searching for the first social location and the first practical adoption of elements of what would come to be called the companionate marriage, we do not even find members of these middling sorts. Instead, we are directed to Europe's elites.

---

[7] Its history did not end with the early modern period. Among the many useful studies of the companionate marriage (and the bourgeois family) in the eighteenth, nineteenth, and twentieth centuries see the following: Leonore Davidoff and Catherine Hall, *Family Fortunes: Men and Women of the English Middle Class, 1780–1850* (Chicago: University of Chicago Press, 1987); Isabel V. Hull, *Sexuality, State and Civil Society in Germany, 1700–1815* (Ithaca, NY: Cornell University Press, 1996); Dagmar Herzog, *Intimacy and Exclusion: Religious Politics in Pre-Revolutionary Baden* (Princeton: Princeton University Press, 1996); Jacques Donzelot, *The Policing of Families* (New York: Pantheon Books, 1979); Eli Zaretsky, *Capitalism, the Family, and Personal Life* (New York: Perennial Library, 1986); Michele Barrett and Mary McIntosh, *The Anti-Social Family* (London: NLB, 1982); Bonnie G. Smith, *Ladies of the Leisure Class: The Bourgeoises of Northern France in the Nineteenth Century* (Princeton: Princeton University Press, 1981); Mary P. Ryan, *Cradle of the Middle Class: The Family in Oneida County, New York, 1790–1865* (Cambridge: Cambridge University Press, 1981).

Georges Duby first took us there. In twelfth-century France, Duby argued, the 'lineage' — Duby's term for the collaterally extended kin group — ceased to use marriage principally to cement social links among its members. Instead, aristocrats began to deploy marriage to form the 'ménage', by which Duby meant the small conjugal unit that was defined by the male head of household and connected to a patriarchally defined line extending vertically through generations. This 'closed' household thus displaced the laterally extensive (and considerably less coherent) 'lineage' in which female lines (if not females themselves) bore the same importance as male and where the hierarchies of generational and gender authority were multiple and mobile. In Duby's interpretation, this change was powerfully fueled by the church's insistence on monogamy and the indissolubility of marriage, but it also had roots and widespread effects in secular society and politics. In this way, the new marriage system served the class interests of elites who were becoming ever more dependent on land; the indissoluble and closed 'ménage' allowed them to accumulate and hoard land as no looser kin confederation could. They could then pass it on, intact, to their directly descendent heirs. Because this system tended to privilege senior males (in a system that often took the strict form of primogeniture), it had an additional socio-cultural effect as well: junior males, denied full inheritance rights, were set adrift and made available for adventures of various kinds, including the warfare and 'l'amour' so celebrated in the romance literature of the day.[8]

Duby's great achievement was to connect changes in cultural and religious understandings of love and marriage to politics and finally to social practices. Although the marriage he described has been called 'modern' because the closed ménage that was its chief innovation served to create and preserve patrimony lodged in male hands, it was by no means 'companionate'. Admittedly, its adherence to church teachings about consent, monogamy, and indissolubility links it to the companionate marriage, for these qualities are an essential part of the latter's definition. But the union Duby studied was not based, as the companionate marriage would be, on desire, companionship, and friendship, but on property and political interests.

Lawrence Stone's equally important *The Family, Sex and Marriage in England, 1500–1800*, the first full historical account of the development of the companionate

[8] Georges Duby, *Medieval Marriage: Two Models from Twelfth-Century France* (Baltimore: Johns Hopkins University Press, 1978). Later restatements and elaborations include his T*he Knight, the Lady, and the Priest: The Making of Modern Marriage in Medieval France*, trans. by Barbara Bray (New York: Pantheon Books, 1983) (trans. of L*e chevalier, la femme et le prêtre: Le mariage dans la France féodale* (Paris: Hachette littérature générale, 1981)) and *Love and Marriage in the Middle Ages* (Chicago: University of Chicago Press, 1994). Although Duby originally argued that the clerical model of marriage was in competition with the aristocratic, his interpretation allows for the aristocracy to have had independent interests in its development. And, as others have pointed out, clerical authorities were themselves drawn chiefly from aristocratic families and usually kept close ties with their kin so would not have been in fundamental disagreement with them about appropriate social practices surrounding marriage.

marriage, made *mentalité* central.[9] In Stone's telling, the companionate marriage was the outcome of several centuries of changes in many domains, including the political, social, economic, and religious, but its signature was the proliferation of a certain language — talk of romantic love in courtship and betrothal, of conjugal partnership and friendship, of the pleasures of domesticity, and of the satisfactions to be had in parenting. These elements appeared first among aristocrats and gentry, then among professionals and other representatives of the most privileged commoners, people who wrote the diaries and letters and read the novels that constituted Stone's primary source of evidence about this change in *mentalité*. Although Stone's use of this material would lead us to expect that the companionate marriage was a phenomenon restricted to the top 5% or so of the English population, Stone insisted otherwise. The companionate marriage, he argued, was the generator of what he called 'affective individualism', the psychological and sociological mark of modernity. It was thus to become quintessentially bourgeois, by 1800 the distinguishing feature of middle class culture. He had, however, no satisfactory explanation for how, when, or why this way of experiencing marriage and family life became the property of England's new middle class of commoners and was obliged to depend on some mysterious process of imitation or, in his words, 'diffusion downward'.

Although Stone emphasized the cultural aspects of the companionate marriage's history, he did not contend that this form of marriage developed at the level of language or *mentalité* alone. It was also a structural development marked by the gradual separation of the nuclear couple from kin. Once deeply enmeshed in a kin network governed by senior males of the line, often even residing in households governed by senior relatives, the nuclear couple was now isolated, with management responsibilities for and full legal control of a small, distinct household centred on the nuclear couple. This 'closed domesticated nuclear' family was not, however, an innovation of England's elite, but of its sturdy yeoman, merchant, or artisan classes who invented its chronological (and logical) predecessor, the 'restricted patriarchal nuclear household'. While Stone explained that this structural feature of the companionate marriage eventually escaped its original social location, he offered no map of the process, implicitly depending on some sort of imitation or, in the words of one critic, 'trickle up'.[10]

As many scholars have pointed out, Stone also implicitly (and sometimes explicitly) celebrated the companionate marriage, as though accepting its own account of the advantages of its child-rearing methods, the benefits women enjoyed by 'partnering' with their husbands, and the general improvements in society it made possible. In doing so, he provided an aggressively progressive, Whiggish history of the family, Weberian in its assumptions about the rise of individualism and modernity.

[9] Stone, *The Family, Sex and Marriage in England*.

[10] A point made in Christopher Hill's review of the book in *Economic History Review*, 31 (1978), 450–63.

As many scholars have objected, he also misread evidence about medieval attitudes and practices, was blind to feminist critiques of the bourgeois family and the system of male dominance it instantiated, and ignored the way the ethic of the companionate marriage delegitimized the social practices of people whose material opportunities were profoundly different.[11] Still, Stone's book remains perhaps the fullest historical account of the shaping of the companionate marriage. It covers a huge time period, locates the changes in sentiment and social structure discussed here against a general background of political, economic, and religious changes, and puts in play many of the actors and actions that have to be taken into account in understanding where this form of marriage came from, who appropriated it, and why.

In the last few decades, historians have energetically taken up the issue of household structure and function in the centuries that ended the Middle Ages and began the early modern period. In doing so, they have directed us even more decisively towards early modern Europe's middling sorts, particularly those in north-western Europe, where, they have shown, the closed domestic household acquired distinctive form and social dominance.[12] Here, among artisans, merchants, professionals, and yeomen, not just in England, but throughout north-western Europe, this household became virtually synonymous with the small nuclear family. By definition, such a family was headed by a couple who had married relatively late in life and at about the same age; their households, independent in law and relatively distinct in social practice from those of kin, were populated only by the couple, their minor children, a few servants, and the occasional dependent relative. Following on these demographic studies, historians have argued that conjugal pairs forming such closed, nuclear residential units could more easily achieve the private and absorbing relationship evoked by the term 'companionate' marriage.[13] Indeed, implicitly or

[11] The critiques of Stone's book are endless and mostly justified, but all acknowledge the importance of the work. See, for example, John Gillis's review in the *Journal of Interdisciplinary History*, 10 (1979), 121–28, for its discussion of Stone's neglect of, even disdain for, the culture of the poor; Philippe Ariès's review in *American Historical Review*, 83 (1978), 1221–24, for Stone's misunderstanding of early modern child-rearing practices; Alan MacFarlane's review in *History and Theory*, 18 (1979), 103–26, for his many misreadings of secondary literature and his ignorance of the medieval experience; and Lois G. Schwoerer's review in *Albion*, 15 (1984), 389–403, for a feminist critique.

[12] See in particular J. Hajal, 'European Marriage Patterns in Perspective', in *Population in History: Essays in Historical Demography*, ed. by D. V. Glass and D. E. C. Eversley (London: Aldine Publishing, 1965), 101–46, and Peter Laslett and Richard Wall, eds, *Household and Family in Past Time: Comparative Studies in the Size and Structure of the Domestic Group over the Last Three Centuries in England, France, Serbia, Japan and Colonial North America, with Further Materials from Western Europe* (Cambridge: Cambridge University Press, 1972).

[13] For this argument, see in particular MacFarlane, *Marriage and Love in England.* Historians of England have been most eager to make this connection; see, for a representative study,

explicitly, many historians have now made household nuclearity part of the definition of the companionate marriage, thus aligning this normative concept with a particular social group — Europe's middling sort of people.

Legal historians have sometimes made a related argument, proposing that where marital property law took what is called communal form, marriages were more likely to be companionate, in the words of some scholars even 'egalitarian'. Under such legal systems, marriage creates a common property account from much of the property brought to the marriage or acquired during its course, and the law makes either surviving spouse, widow or widower, successor to that category of wealth. While few communal systems treated *all* property held by either spouse as communal wealth (most excepted real estate or 'immovables' carried into the marriage or property that was otherwise labelled patrimonial), the customary dower that widows could often claim (the right to a living from any non-community property left by their husbands) inflected the entire marital estate with the aura of mutuality. This form of marital property law thus contrasts strongly with strictly dotal systems modeled on Roman law. In these, there is no community property and no dower; instead, a woman transmits her dowry from father to husband, who uses and manages it during the marriage but returns it to her and her male kin, intact, in her widowhood.[14] To many historians such an arrangement, so 'separatist' in spirit, has seemed an unlikely nurturer of the friendship and mutual cooperation that helps define the companionate marriage.[15]

Law and demography thus combined, in the minds of many historians, to locate the companionate marriage most firmly among early modern Europe's 'middling

---

Barbara A. Hanawalt's *The Ties that Bound: Peasant Families in Medieval England* (Oxford: Oxford University Press, 1986).

[14] By the late Middle Ages, the rules about control of the dowry during both marriage and widowhood varied from place to place; in some widows could themselves control the dowry, although that right was usually limited and often challenged. See Isabelle Chabot, 'La Loi du lignage: Notes sur le système successoral florentin (XIV^e^–XV^e^–XVII^e^ siècles)', *Clio: Femmes, Histoire et Société*, 7 (1998), 51–72. On Italy more generally, see Thomas Kuehn, *Law, Family and Women: Toward a Legal Anthropology of Renaissance Italy* (Chicago: University of Chicago Press, 1991), pp. 238–57.

[15] For the legal history, see Paul Ourliac and Jehan de Malafosse, *Le Droit familial*, vol. III, *Histoire du droit privé* (Paris: Presses universitaires de France, 1971); Paul Ourliac and Jean-Louis Gazzaniga, *Histoire du droit privé francais de l'an mil au Code civil* (Paris: A. Michel, 1985); P. Petot and A. Vandenbossche, 'Le Statut de la femme dans les pays coutumier français du XIII^e^ au XVII^e^ siècle', in *Recueils de la Société de Jean Bodin pour 1'histoire comparative des institutions*, 12 (1962), 243–55; Philippe Godding, *Le Droit privé dans les Pays-Bas méridionaux du 12e au 18e siècle*, Mémoires de la Classe des Letttres, Collection in 40, 2nd series, pt. 1 (Brussels: Académie royale de Belgique, 1987); Ardiane Schmidt, *Overleven na de dood: Weduwen in Leiden in de Gouden Eeuw* (Amsterdam: Prometheus/B. Bakker, 2001); Raoul Charles van Caenegem, *A Historical Introduction to Private Law* (Cambridge: Cambridge University Press, 1992); Amy Louise Erickson, *Women and Property in Early Modern England* (London: Routledge, 1993).

sorts', that is, among artisans, merchants, lawyers, and other professionals, as well as yeomen, especially in northern Europe, in what is now England, northern France, the old Low Countries, and parts of Germany.[16] This historiography has thus tended to make the very term 'companionate marriage' class specific (and place specific as well), putting special pressure on the qualities of intimacy, partnership, and mutuality that help constitute the ideal. There is much to recommend this reasoning, and I will concur in many respects with its central conclusions — that in this subculture the companionate marriage acquired the full range of meanings associated with the term and in doing so gave dominance to a particular morality and specific registers of emotional life. The argument as it now stands, however, cannot bear so much weight.

First, the small nuclear household, although best documented in this region and among these middling sorts, was by no means confined to that area or social location — many southern French or Italian artisans, even many peasants, also formed nuclear households, for example, and many French, English, or German merchants seem not to have done so.[17] Second, the correlation between communal marital property law and the north is less strong than it first appears. Although the regional tendencies described by legal historians generally hold, in no region, among no class, was marriage exclusively 'dotal' or 'communal' in the strictest sense of either word. Everywhere, local custom and written agreement made exceptions, modifications, or addenda that rendered a dotal system more communal, a communal system more separatist. Moreover, recent research on France, Flanders, and elsewhere has shown that as the Middle Ages slipped into the early modern period — exactly when the ideology of companionate marriage was being ever more fully articulated — middle class families in the regions of community property law increasingly modified their customs, creating more separatist, dotal-like regimes.[18]

---

[16] This argument is explicitly made in studies such as Houlbrooke's *The English Family* but it generally pervades the scholarly literature. See, for some recent examples, Schmidt, *Overleven na de dood*, and Otis-Cour, *Lust und Liebe.*

[17] See, for a study of a southern French region where nuclear households were common, Jean Hilaire, *Le Régime des biens entre époux dans la region de Montpelier du début du XIII^e^ à la fin du XVI^e^ siècle* (Montpellier: Ausse, Graille et Castelnau, 1957), and his more general discussion of the long history (in southern Europe) of the principles of 'community' (both conjugal and otherwise): 'Vie en commun: Famille et esprit communautaire', *Revue historique de droit français et étranger*, 51 (1973), 8–53. For a study of Parisian merchant and professional families whose households were not nuclear in the full sense, Barbara B. Diefendorf, *Paris City Councillors in the Sixteenth Century: The Politics of Patrimony* (Princeton: Princeton University Press, 1983).

[18] On the instability of marital property law in this age and the directions of change that seem to have occurred (particularly but not exclusively in northern France and the southern Low Countries), see Robert Jacob, *Les Epoux, le seigneur et la cité: Coutume et pratiques matrimoniales des bourgeois et paysans de la France du Nord au Moyen Age* (Brussels: Facultés universitaires Saint-Louis, 1990); Georges Chevrier, 'Sur quelques caractères de l'histoire du régimes matrimonial dans la Bourgogne ducale aux diverse phases de son développement', *Mémoires de la Société pour l'Histoire du Droit et des Institutions des anciens pays*

Conversely, there is plenty of evidence to suggest that marriages among southern Europeans, both urban and rural, or among English aristocrats, none of whose households were nuclear in the sense defined by demographic historians (where, for example, brides were mere teenagers and grooms often a generation older) and whose marriages were aggressively dotal or 'separatist' in structure, were, nevertheless, 'affective' in some sense. Historians such as David Herlihy, Stanley Chojnaki, and Barbara Harris have, for example, argued that husbands and wives in these cultures formed bonds of intimacy much like those associated with the companionate marriage and that they entered marriage with these expectations in mind.[19] To a certain extent, these disagreements can be explained by the very malleability of the concept 'companionate marriage'. These scholars rely on evidence that husbands and wives expressed fondness for one another, cooperated in management of family financial affairs, and demonstrated affection, even devotion, towards their children and their education. These elements are, indisputably, characteristic of what scholars have labelled the companionate marriage. Still, it is hard to argue that the full array of what historians intend by the term was in place. These marriages were by and large arranged by parents and kin (although the consent of bride and groom was technically given); wives were typically much younger than their husbands; the married couple shared only limited social spaces outside the home; and even within the home the respective domains of husband and wife tended to be distinct. Compared to the 'classic' companionate marriage, these fell rather short of the ideal. Still, this evidence suggests that the ideals and practices associated with the companionate

bourguignons, comtois et romands, 27 (1966), 257–84; Jean Bart, 'La Pratique des contrats de mariage dans la région Dijonnaise à la fin du XVIII[e] et au début du XIX[e] siècle', *Mémoires de la Société de l'histoire du Droit et des Institutions des anciens pays bourguignons, comtois et romands*, 27 (1966), 285–313; Turlan, 'Recherches sur le mariage dans la pratique coutumière'. For the way Parisian and French marital property law developed during the early modern period, see Hanley, 'Engendering the State', and Diefendorf, *Paris City Councillors*.

[19] Stanley Chojnaki, 'The Power of Love: Wives and Husbands in Late Medieval Venice', in *Women and Power in the Middle Ages*, ed. by Mary Erler and Maryanne Kowaleski (Athens: University of Georgia Press, 1988), 126–48; David Herlihy, 'Family', *American Historical Review*, 96 (1991), 1–16. For the English aristocracy, see in particular Barbara J. Harris, *English Aristocratic Women, 1450–1550: Marriage and Family, Property and Careers* (Oxford: Oxford University Press, 2002). Barbara Diefendorf's 'Give Us Back Our Children: Patriarchal Authority and Parental Consent to Religious Vocation in Early Counter-Reformation France', *The Journal of Modern History*, 68 (1996), 265–308, argues that parent-child relations among the French haute bourgeoisie were 'modern' in sensibility.

There is, however, no general agreement on how widespread these attitudes and practices actually were. See, for important studies describing the radically hierarchical (and separatist) nature of gender relations in marriage among the Florentine patriciate, Christiane Klapisch-Zuber, *Women, Family and Ritual in Renaissance Italy* (Chicago: University of Chicago Press, 1985). Also see Jutta Giesela Sperling, *Convents and the Body Politic in Late Renaissance Venice* (Chicago: University of Chicago Press, 1999).

marriage were in formation among many groups in late medieval and early modern Europe, at least among its propertied classes.

Third and perhaps most telling, it is not at all clear that a communal marital regime would foster companionate gender relations in marriage. While communal regimes do create mutual property interests, they are not egalitarian except in the narrow sense that in their strictest form they give widows the same succession rights that widowers enjoy. During the marriage, however, they are anything but egalitarian in structure, for the classic communal property regime makes the husband the sole and absolute manager of the conjugal fund, including all property that his wife might bring to the marriage or acquire in its course. Such an arrangement, it is easy to imagine, would hardly produce the harmonious partnership imagined by the term 'companionate' marriage.[20]

We are left, then, with two problems. First, law and demographic patterns alone cannot account for what most historians accept — that the companionate marriage was most fully articulated and experienced in these early years among north-western Europe's middling sorts of people. In short, that it was in this region, during this period, that the model clearly emerged.[21] Second, the language of conjugal love, of partnership, of consent, and of parental responsibilities was also spoken elsewhere, for example, among the French haute bourgeoisie, English aristocrats, and Italian merchants alike. The complex empirical record we have about the early history of the companionate marriage cannot, then, be explained by demography and marital property law alone; a satisfactory social history of its adoption and adaptation will

[20] There is good evidence from legal and literary texts to support this reasoning. The comic literature is replete with stories of marital squabbles over property, especially in the north, exactly in those regions of community property law. Typical (and particularly well known) is Chaucer's 'Shipman's Tale' from *The Canterbury Tales*, in which a wife who as 'feme couvert' has access to money only through her husband and cuckholds him in order to buy a new dress. For a historical study employing anti-marriage literature circulating in the southern Low Countries during the period, see Myriam Greilsammer, *L'Envers du tableau: Mariage et maternité en Flandre médiévale* (Paris: A. Colin, 1990).

[21] It did so, moreover, among Catholics and Protestants alike although, as many scholars have pointed out, Protestants, especially Puritans, most fully articulated many of its ideals. Some scholars have emphasized the purely religious or doctrinal origins of the emphasis on marriage as a kind of spiritual exercise, while others have linked the social practices associated with the companionate marriage to the 'protestant ethic' à la Weber. See, for basic literature, Edmund Leites, *The Puritan Conscience and Modern Sexuality* (New Haven: Yale University Press, 1986), and his 'The Duty to Desire'; Edmund Morgan, *The Puritan Family: Religion and Domestic Relations in Seventeenth-Century New England* (New York: Harper and Row, 1966). There is almost as rich a literature claiming that Catholics were equally invested in the companionate marriage and its ethic; guides to relevant literature include Steven E. Ozment, *When Fathers Ruled: Family Life in Reformation Europe* (Cambridge, MA: Harvard University Press, 1983) and the more recent article by Diefendorf, 'Give us Back our Children'.

require a deeper understanding of the social circumstances of people who expressed these ideals and were positioned to live them.

A key to this understanding lies in the history of property during the pivotal centuries that gave rise to this ethic. Many of my predecessors have, of course, called attention to the importance of property in the history of 'modern' marriage, Duby perhaps first among them. Stone did as well, embedding his narrative in a progressivist story about capitalism's emergence and its association with 'affective individualism', for him the critical product of the companionate marriage. But, as scholars such as John Gillis have complained, Stone (along with most who have followed) did not specifically target what Gillis referred to as the mode of production.[22] While I do not employ that analytical category here, I implicitly pursue his suggestion that we must focus not on 'property' or the 'economy' in a general sense but, rather, that we must precisely analyse the way property was defined and socially located. Hence, rather than 'property' *tout court*, I am interested in the *forms* property took in this age, the significance of the differences among them, and the ways that each form was transferred, claimed, or owned.

Specifically, I am interested in movable wealth and I want to propose that the proliferation of this kind of property put new pressure on conjugality, subtlely eroding the bond that had once tied husband to wife, parents to children, and nuclear core to kin. Marriages that had once been secured *by* immovable property now became tools *for* securing property, and to perform that role they had to be based on something more reliable than the movable assets that were the very source of the new instability. As a result, it was those portions of the population of Europe most dependent on movable wealth that eagerly took up the language of love, the ideal of companionship and friendship, and the notion that marital bonds were deeply personal. It was they who assembled, from building blocks bequeathed by several centuries of social and cultural change, the companionate marriage as historians typically define it — and as it has since served Westerners in their assertion of modernity. It was they who tightly wove friendship, companionship, choice, and partnership into a moral vision; they who formed independent nuclear households where these bonds were most intensely cultivated; and they who gave parenting new, more complex meaning by emphasizing the parents' responsibility for their children's character, skills, and achievements in life.

To the extent that this transformation was fuelled by movable, commercial wealth, it is unsurprising that it took deepest and earliest root in the urbanized north, where for so many people of the 'middling sort' movable assets were not only the principal form of wealth but also the prime determinant of social place. The companionate marriage would not, however, have been confined to that area or even to that small sector of early modern Europe's middling sorts. The ideology and the set of practices associated with it would be adopted, piecemeal, by all Europeans (and

[22] See Gillis's review in the *Journal of Interdisciplinary History*.

North Americans) during the early modern period in a context of continued economic, legal, political, and religious change, all associated with the continuing commercialization of the European economy and society. By the time of the French Revolution, the companionate marriage would exist throughout the West as the middle class ideal and the norm against which all marriages would hereafter be measured. In the century to come, as Europe colonized other parts of the world, this model, with all its inconsistencies and ambiguities, would serve as the mark of Western 'modernity' to which the colonized were instructed to aspire.

Property and Marriage

My argument is not, however, that property lost its importance in marriage decisions during this history of some five hundred years. On the contrary, until the modern era, marriages in Europe were explicitly constructed by the transfer of property, whatever the social class of the couple — whether aristocrat or peasant, noble or commoner, merchant or artisan — and whatever the form of property. While medieval marriages were made by an exchange both of vows and of property and while the church made the vow central, the vow could be readily disregarded unless property had been exchanged as well. In fact, the vow was understood to be a promise to render property at some future date. 'No marriage without dower', went a widely quoted medieval aphorism, a sentiment frequently elevated to the status of law, even appearing in twelfth-century canon law texts (the very texts that otherwise spoke of 'mutual consent' alone). In this legal and cultural imagination, a 'real' marriage did not exist without the exchange of property rights that financed the new household, linked the respective families, and sealed the marital bond itself. [23]

The property exchange was essential to marriage for the obvious reason that the new couple could not set up household or support their children without these assets, but it served other social purposes as well. Marriages formed in this way created ties of kinship that had material bases, linking families and individuals in ways that traditionally created and sustained social order and that assured class continuity through generations. The result, as historians well understand, was that marriage decisions, although seldom undertaken purely for social and material reasons, always retained these motivations.

Until the late Middle Ages, when Europe's commercial revolution began to destabilize this marital system, one kind of property alone — land and land rights — constituted not just the principal medium of the marriage exchange, but in the cultural and legal imagination was synonymous with it. Whether transferred as a dowry, a donation to a common fund, or a promise of future dower, it was land that sealed a

[23] *Nullum sine dote fiat coniugium*, a principle reiterated even by Gratian and translated into most of the vernaculars during the course of the Middle Ages. On this issue, see in particular Turlan, 'Recherches sur le mariage dans la pratique coutumière'.

marriage. This did not mean, to be sure, that other kinds of property were excluded from the marriage exchange, for animals and equipment, household goods and food stores, were always part of the mix. But it is no exaggeration to say that these goods, like the buildings that attached to land, so derived their meaning from their association with land that the marriage exchange, like all property relations in medieval Europe, was based on the economy of land. Animals and stores of grain, equipment and even buildings had no use except when attached to land, and no value in an economy where most value was still derived from use. In most customary legal regimes, such goods passed with the tenancy, as an inseparable part of the heritable estate.[24] Jewels, arms, coin, and luxurious clothing, which could also be part of the marriage exchange, were a slightly different matter, but very few Europeans of this epoch owned significant amounts of such goods — and those who did were very rich in land as well and gave land overwhelming pride of place in making their marriages.[25]

Land, at least as it functioned in the medieval economy, was a particular kind of asset, and it is these particularities that then gave marriage its stability, allowing it to function so well as a bedrock of social and gender order. Land, and the property attaching to it, was an especially, perhaps uniquely, secure form of wealth. The term

[24] In the north, property law was governed by custom or, depending on the region, sometimes by statute or (in England) by aspects of common law. In the south custom did not control but nevertheless influenced the way principles of Roman law concerning marital property and inheritance were applied. The literature on civil law is vast; for overviews, see Ourliac and Malafosse, *Histoire du droit privé*, and Godding, *Le Droit privé*.

[25] A claim that the medieval economy (and socio-political system built on it) was based on land needs no particular defence, for historians regularly emphasize this feature of the period. Discussing marriage, historians frequently make the same point but even in considering marital property law (whose texts normally did make a clear distinction between land and other kinds of wealth, or between immovables and movables), historians have seldom emphasized the peculiar nature of this asset in the age. (Fleming's passing comment, in *Family and Household*, p. 88, is representative: 'for most widows, from countesses to cottagers, it was land that provided the key to future security'.) Erickson, *Women and Property*, is more attentive to this issue, even though by the seventeenth century (where she concentrates), land and its appurtenances had been more fully commercialized than they were in the Middle Ages. To be sure, other scholars have called special attention to the significance of land in the medieval marriage exchange; for instance Sandra Cavallo and Lyndan Warner remark that when immovable goods or real property largely made up the dowry, they were difficult to divide. See *Widowhood in Medieval and Early Modern Europe*, ed. by Sandra Cavallo and Lyndan Warner (New York: Longman, 1999), p. 13. But the significance of marriage's structural dependence on land has not, to my knowledge, been explored in depth. Several essays in a forthcoming volume from the University of Toronto Press (Nancy E. Wright and Margaret W. Ferguson, eds, *Women, Property, and the Letters of the Law in Early Modern England*) explore this issue in more depth, but they concentrate on the seventeenth and eighteenth centuries, when the economy in Britain had been significantly more commercialized than it was in the late Middle Ages.

used throughout the Middle Ages (and into the modern era) to refer to land, a term employed in both law and common speech alike, perfectly captures this quality and attests as well to how clearly contemporaries understood this feature: land was an 'immovable', in fact the prototype of all immovables. The term 'immovable' had, of course, a literal sense; land cannot be transported, it cannot be hidden or misplaced. During the Middle Ages, however, there was still more to land's immobility. Most land, along with its appurtenances, was then transferable only according to strict rules of inheritance or ritualized gift; much of it could not be sold except in special circumstances and even then it was not land itself but limited rights to the land that changed hands.[26] While land paid fees and rents that were sometimes separated from lordship over the land, these rents were not fully marketable or negotiable and would not become so until very late in the Middle Ages. Land did not depreciate in the normal sense of the term. To be sure, land might lose productive value; it could be misused, badly farmed, stupidly subdivided, stripped of its trees, and even flooded. But even those devastations could be restored; nature herself would in time heal the land.[27]

[26] The rules governing land transmission and use cannot easily be summarized, for they varied widely in detail from place to place, period to period, and class to class. It is fair to claim, however, that most land could not be freely bought and sold and that most passed by rules of inheritance or ritualized gift, even in the late Middle Ages. In England alone, property law had a formidable complexity. By the thirteenth century, heritable tenements (in fee simple) were understood to be alienable under common law; land received as dowry was traditionally inalienable but according to Bracton and later commentators, alienation was possible under particular circumstances (although the possibilities were virtually blocked by Statute *De Donis* in 1285). Copyhold land (the successor to villein tenure) was alienable as well but its transfers were surrounded with burdensome impediments that restricted mobility. See A. W. B. Simpson, *An Introduction to the History of the Land Law* (Oxford: Oxford University Press, 1961) for the English case, esp. pp. 60–64 and 77–87.

[27] The category of immovables was capacious. For Beaumanoir immovables were things which were everlasting and which produced annual income. Perpetuity and the production of issues thus characterized immovables even more than the important fact of immobility. Jean Brissaud, *A History of French Private Law*, trans. of 2nd French edn (Boston: Little, Brown, 1912), provides a summary of the types of property included in the category in the Middle Ages: the land and everything which is an integral part of the soil, buildings, crops growing on branches or roots; the movables which adhere to the immovables in the quality of accessories or appendages of the latter (but only in principle, if there was a physical connection); rights over the land which are like the ownership because of their duration (servitude, quit-rent, and rents) and rights which, according to the feudal conception, were connected with the land itself (right of administering justice or toll, for example); rights like established rents and salable offices which had movables as their object but which were immovable or feudal in their origin (pp. 270–72).

According to Godding, *Le Droit privé*, Germanic law originally made a distinction only between property that produced wealth and that which did not (*héritages*, *erve*, *heriditas* vs. *cateaux*, *have*, *cattalum*). The immovable/movable distinction was a thirteenth-century import from Roman law and does not perfectly correspond to the *héritages*/*cateaux* distinction. In the

It is of course a gross overstatement to claim that land was really 'immovable' unless we mean that it could not be physically transported. Throughout the Middle Ages land was alienable in some situations, and as the Middle Ages gave way to the early modern period, there were places and circumstances in which land rights were frequently bought and sold. The issue is not, however, whether land was technically alienable or bought and sold under particular circumstances. The issue is whether land circulated in developed markets, which itself slides (or explodes) into the question of whether this was a 'market economy'. To the first question, many historians, particularly the English, have responded that the market in land, labour, and products was surprisingly well established in the late Middle Ages, and they have produced convincing evidence in support of this claim. Lords secular and religious produced wool and grain for markets; peasants sold surplus and raised animals for the regional markets; fathers sold land out from under their heirs; daughters took cash into marriages that had been raised by sale or mortgages of land or by sale of its products.[28]

While the evidence that markets existed and that many people partook of its opportunities in late medieval England seems uncontestable, several refinements should be noted. First, England was not all of Europe; nor was Flanders, northern Italy, or the Rhineland, other areas where similar evidence can be adduced. Second, this information offers few surprises (unless one had presumed that the medieval economy had ever been entirely a subsistence or 'natural' economy), for there had to have been commercialization of the countryside if there was to have been urbanization; where else did city people get food, drapers get wool, armourers get metal, saddlers leather? Third — and this is the central point — the medieval market is not the modern market economy. Land and labour, although alienable and alienated in many places under specific conditions, did not circulate then as now. In medieval Europe, it must be remembered, land's immobility was a principle of law, even if there were situations in which law could be bent or circumvented. While it is easy to overstate the sanctity of this principle — and much of the literature on the 'medieval

---

legal imagination, however, land was the perfect immovable, the *héritage* par excellence (p. 142).

[28] For representative studies, see R. J. Faith, 'Peasant Families and Inheritance Customs in Medieval England', *Agricultural History Review*, 14 (1966), 77–95; Eleanor Searle, *Lordship and Community: Battle Abbey and its Banlieu, 1066–1538* (Toronto: Pontifical Institute of Mediaeval Studies, 1974); Maryanne Kowaleski, *Local Markets and Regional Trade in Medieval Exeter* (Cambridge: Cambridge University Press, 1995); Richard H. Britnell, *The Commercialisation of English Society, 1000–1500* (Manchester: Manchester University Press, 1996); for the Low Countries, especially Flanders, see Adriaan E. Verhulst, *Le Paysage rural: Les Structures parcellaires de l'Europe du Nord-Oeust* (Turnhout: Brepols, 1995); idem, *Agrarian Revolutions: Myth or Reality?* (Louvain-La-Neuve: Belgisch Centrum voor Landelijke Geschiedenis, 1989); idem, 'L'Intensification et la commercialisation de l'agriculture dans le Pays-Bas méridionaux au XIII^{e} siècle', *Sartoniana*, 2 (1985), 71–95.

market economy' is a response to such overstatements — the fact remains that feudal law, customary law regulating non-feudal property, and even 'written' law echoed deeply imbedded cultural norms regarding land's permanence.

Even those scholars most insistent on the primacy of the 'laws of supply and demand' in the late medieval land economy acknowledge that it was a phenomenon of the fourteenth and fifteenth centuries, not the entire Middle Ages, and that its geographic and social scale were limited.[29] Combined with the technological limitations of the medieval economy, law produced cripplingly high transaction costs. Further, 'money' then did not perform all the functions of money: a standard of value it certainly was (as a money of account, not as a coin), but most coin ('black money') was a poor store of value, and coin was only one of the media of exchange. Finally, prices (in particular commuted rents, tithes, and taxes) were frequently not market outcomes, but, as one scholar has put it, 'cultural constructs, their levels fixed by custom'.[30]

The distinction here is between what scholars have called a market-place economy, something that has existed at least since the Phoenicians sailed the eastern Mediterranean, and a market economy, something characteristic of the modern West.[31] Scholars generally define the latter as a system in which limitations on specialization and the division of labour have been removed via price competition and where production is disciplined to mesh output and capital/labour movements with demand, to diversify, to seek scale economies, to husband resources such as livestock, and to intensely cultivate surplus. The measure of such development, most scholars also agree, is the degree of price convergence achieved by arbitrage. By that measure, the 'medieval market economy' was no market economy.

My argument thus readily concedes that land (and labour) was bought and sold, in some places more than others and by some people more than others in the Middle Ages, but I want to emphasize that land then did not circulate as it would in a market economy. While it was never the perfectly stable asset evoked by the term 'immovable', land had this quality in good enough measure through most of the Middle Ages to ground all social relations, not just those of generalized political and social

---

[29] Faith, 'Peasant Families and Inheritance Customs', esp. p. 89 (from which the phrase is taken). Faith also emphasizes that even in those settings land ownership itself was continuous across generations, although families had lost their attachment to a single, identical holding.

[30] Winfred Barr Rothenberg, *From Market-Places to a Market Economy: The Transformation of Rural Massachusetts, 1750–1850* (Chicago: University of Chicago Press, 1992), p. 29. Dues ('cens') set in money were extremely vulnerable to depreciation and during the late Middle Ages many lords (and princes on their behalf) took measures to protect these incomes. See, for a brief discussion and references, Godding, *Le Droit privé*, p. 176.

[31] Both are ideal types, definitional categories employed to distinguish complexes of socio-economic practices, and both can be criticized for their inattention to historical specificity, their tendency to homogenize what is not homologous, and their implicit Whiggishness. Nevertheless, such analytical tools are essential for distinguishing one age, one culture from another; without them we risk denying historical change itself.

hierarchy on which historians have traditionally focused, but also, by way of marriage, those of gender, family, and kin.[32]

Such was the stabilizing power of this asset that, no matter the particular features of the marital property regime in effect — whether communal, dotal, or, as was the usual case throughout Europe, hybrid — all forms of the marriage exchange possessed a social rationality derived from land's permanence, its immobility. When marriages were made by an exchange of rights in land, it was possible to imagine that structural connections between separate people, people whose interests were necessarily different and constantly changing, could be established and maintained by fixing their individual relationships to a shared piece of property. Land could fix relations not just between husband and wife but also between parents and children, the couple and their kin. Depending on the terms of the marital property law governing a particular union, land could, for example, tie a widow to her late husband's kin, forge a permanent link between father and the son who would inherit, or lend patriarchal authority to a married woman who possessed land as dowry that could be reclaimed for her own family in her widowhood. Whether positioned as daughter or as wife, as mother or as widow, a woman's interests could thus be bound to a single man through the land. It was the same for the male — whether son or husband, father or widower. His social identity, his ties to others, especially to kin and immediate family, were set — and held — in place by land.

This was, let me emphasize, not simply an imaginary effect. People who are jointly or severally dependent upon a productive asset such as land, one that has to be worked or put to work in order to provide subsistence, are ineluctably joined in social intercourse, often bound to live and work together, always bound to share income and management responsibilities. But the stability of the assets did not assure untroubled social relations, for such interdependencies created tensions. People so joined through life (and even beyond) will inevitably disagree at times, feel trapped by their bondage to the land and to the rules of its transmission and use; they might well bear long enmity towards those whose rights overrode their own needs. A daughter who carried land from her father to the children she would bear, for

[32] For basic literature on market economies, see Karl Polanyi, Conrad M. Arensberg, and Harry W. Pearson, eds, *Trade and Market in the Early Empires* (Chicago: Regnery, 1971); Anthony Parel and Thomas Flanagan, eds, *Theories of Property: Aristotle to the Present* (Calgary: Wilfrid Laurier University Press, 1979); Karl Polanyi, *Primitive, Archaic and Modern Economies: Essays of Karl Polanyi*, ed. by G. Dalton (Boston: Beacon Press, 1971); Max Weber, *The Protestant Ethic and the Spirit of Capitalism* (Los Angeles: Roxbury Publishing, 2002); Fernand Braudel, *The Wheels of Commerce* (Berkeley and Los Angeles: University of California Press, 1982); S. R. Epstein, *Freedom and Growth: The Rise of States and Markets in Pre-Modern Europe* (New York: Routledge, 2000); C. B. MacPherson, *The Political Theory of Possessive Individualism: Hobbes to Locke* (Oxford: Oxford University Press, 1967). Thomas Haskell and Richard F. Teichgraeber, *The Culture of the Market* (Cambridge: Cambridge University Press, 1993) provides a particularly useful introduction to the literature.

example, was normally positioned only as the land's trustee, not as its owner, and her obligations to maintain the asset in the interests of others would often, we can be sure, have weighed heavily. As dowager widow, a woman would be utterly dependent on the land for subsistence and social place but many such widows found that they were regarded as impediments to their own sons' adulthood, resented for the claims they had on the dower. We have only to consult the letters, diaries, and stories that have come to us from the early modern period to know how such interdependencies could strain intimate relations. And only to consult the legal records to find how people struggled to circumvent these limitations.[33]

Painfully as these ties sometimes bound, however, and as powerfully as the injuries could fuel long-lasting disputes, the same ties also offered a promise. A source of subsistence today, land was also the purported guarantor of subsistence tomorrow, an implicit pledge that old age would be cared for, that social standing would be preserved, and that the next generation would enjoy the same rank, the same security, the same future. This was as true for peasants as aristocrats, as true for royalty as for commoners. It is surely this promise that made medieval people so willing to bear the tensions, disruptions, and anxieties attending shared claims to land. No wonder then that people clung so fiercely to land and so ardently sought it when they did not have it. No wonder that marriages made by exchanging such assets seemed firmly grounded, capable of making close allies of distant neighbors, of founding dynasties that would endure through time, and of creating so strong a life bond between woman and man that they needed scarcely to have been introduced in order to be declared 'well-matched'. No wonder that the emotional content of marriages thus constructed was muted in comparison to later periods when the companionate marriage was the norm.

Movable Wealth, the Market, and Marriage

By the late Middle Ages, however, a class of people had emerged that could not rely on land to serve them thus, for their wealth consisted not of land, but of movables. The category included, of course, clothing and household goods, as well as

[33] For studies illustrating some of these difficulties in the medieval and early modern periods, see Rowena Archer, 'Rich Old Ladies: The Problem of Late Medieval Dowagers', in *Property and Politics: Essays in Later Medieval English History*, ed. by T. Pollard (Stroud: A. Sutton, 1984), pp. 15–35; J. Senderowitz Loengard, '"Of the Gift of her Husband": English Dower and its Consequences in the Year 1200', in *Women of the Medieval World*, ed. by Julius Kirshner and Suzanne Wemple (Oxford: B. Blackwell, 1985), pp. 215–55; L. E. Mitchell, 'The Lady Is a Lord: Noble Widows and Land in Thirteenth-Century Britain', *Historical Reflections*, 18 (1992), 71–87; Maura Palazzi, 'Female Solitude and Patrilineage: Unmarried Women and Widows During the Eighteenth and Nineteenth Centuries', *Journal of Family History*, 15 (1990), 443–59.

appurtenances to the land like granaries, cattle, and plows, assets that had once been easily subsumed under the category of 'héritages' and explicitly or implicitly tied to the land which defined the legal category itself. However, their assets of this kind, whether household goods, clothing, buildings, or livestock, were typically no longer bound to the land. They had been acquired in markets and were available to markets, independent of land rights. Even greater portions of their assets were in different kinds of movables, goods that were born in commerce — equipment for a trade, raw materials for manufacture, inventories. Or, less tangible, their wealth was in the form of financial paper — uncollected debts due, annuities held, capital invested in a sea voyage — or, least tangible of all, in craft skills, guild rights, business clientele, accounting expertise, or proprietary technical knowledge. In the earliest days of the commercial revolution that gave birth to this class of Europeans, these people were found almost exclusively in cities, pre-eminently in Italy and the Low Countries. To be sure, over the centuries that followed, as markets fully invaded the countryside, rendering peasants market farmers or wage labourers and making entrepreneurs of landed gentry, commercial wealth would count for a huge portion of everyone's wealth — whether yeoman or gentry, merchant or artisan.[34]

For people who lived from such wealth, the market was the essence of their social existence. Most scholars have acknowledged this dependence, recognizing that urban people, particularly those in north-western Europe and northern Italy where cities founded purely on trade and industry typified urbanity, existed in a kind of economic subculture. Here, market relations were more visible and intense than they were in the countryside, even if outside the cities peasants regularly marketed their surpluses or lords produced wool for urban drapers. Typically, however, scholars have focused most of their attention on the countryside, not cities, when studying the history of the European market economy. Their choice is understandable, given that the agricultural economy was the motor of the whole, comprising somewhere between 80 and 90% of what we would call GNP. If, however, we are interested in how Europeans responded to the earliest experiences of a market economy, we must look first to cities, because it was here that wealth was most intensely commodified, principally because most of it was movable wealth, wealth that in law and in social practice was free to circulate — indeed, was obliged to circulate in order to produce value and sustain life.

Today, it is the norm for people to live from commodified wealth, wealth that is movable in its fullest sense of the word, but today — despite periodic crises in the stock market, interruptions of trade due to political instabilities, and systemic

[34] Fleming, in *Family and Household*, underlines the importance of movables in medieval urban estates, commenting that 'for the urban widow, her husband's moveables would often have represented the bulk of his wealth' (p. 86). By the seventeenth century in England the dependence on movables was even more widespread, extending deep into the countryside. Erickson, *Women and Property*, for example, concludes that movables made up a huge portion of the assets held by rural householders and yeomen in that period.

slowdowns of the economy — assets of this kind have achieved a stability, a permanence, a fixity unknown in the Middle Ages. Today there are lawyers to design trusts, fiduciary institutions to manage them, states to guarantee them, banks to insure deposits, health and old age insurance provided by the state or state-like institutions, public education. In the Middle Ages, little of this existed, at least for regulating movable wealth, and the person who lived entirely from movable wealth thus lived at risk in a way unknown to us today.[35] Then, unlike now, the category of movable wealth thus denoted a kind of legal, economic, physical, and cultural mobility that was new to medieval practice and imagination. Then, the terms 'movable' and 'immovable' were more than convenient legal categories; they expressed the difference between wealth that could serve as patrimony and that which could not, between wealth whose value could be expected to endure and wealth whose value was certain to change, between wealth that could itself not be lost from view and wealth that could too easily disappear.

To be sure, merchants and artisans were inventive, and many of their civic and religious institutions mounted defences on their behalf. Limited partnerships, hansas, family firms, Florence's famous dowry fund, primitive forms of 'venture' insurance, assistance in old age, illness, or marriage provided by guilds and confraternities — all these helped to shield individuals and their dependents from the ravages of a market economy that was itself relatively unfettered.[36] But the archives of the day document the fragility of these efforts. Stories of bankruptcies; of entire shipments, even fleets, lost to storms or pirates at sea and the fortunes that financed them lost with them; of trade embargoes that ruined an urban industry almost overnight, all these tales remind us how vulnerable people then were, at least as compared to those of us who live in North America and western Europe today. Less directly, the same archives record the way that marriage and family relations themselves were threatened, even shattered, by such risks — widows left destitute, sons set adrift, daughters without marriage portions, brothers squabbling over the tattered remains of a business.

The archives also document the energy people then devoted to managing such wealth — the ways they deployed the legal system, their social networks, or their political connections to cope with these risks. By its very abundance, however, the same documentation also reveals the severity of the problems, thus serving as a measure of the time, energy, and ingenuity people had to devote to these tasks and the bluntness of the instruments at their disposal. Let us look, by way of example, at an

[35] Little existed even in the early modern period, or the measures that had been taken were being too rapidly overtaken by rampant commercialization. The sixteenth and seventeenth centuries are, in fact, generally understood to have been the most unsettled in that respect. For a general description, see Jean-Christophe Agnew, *Worlds Apart: The Market and the Theater in Anglo-American Thought, 1550–1750* (Cambridge: Cambridge University Press, 1986).

[36] For an excellent overview of these techniques, see *Cambridge Economic History of Europe*, vol. III, ed. by M. M. Postan, E. E. Rich, and E. Miller (Cambridge: Cambridge University Press, 1963).

issue that seems to have yielded hundreds of thousands of legal records during the age — the distribution of communal property at the death of a spouse, a process that regularly occurred in the regions of community property law. Beginning in the late Middle Ages and reaching a crescendo in the sixteenth and seventeenth centuries, such distributions were often accompanied by legally drafted post-mortem inventories or listings of distributable assets held at death. In all but the exceptional regime, such goods were movables, and everywhere movables were the essence of the account. In one entirely typical case from late-fourteenth-century Paris, the son of a deceased man and his mother, who is now remarried, come to court to request a post-mortem inventory so that, as the law of Paris required, the communal goods in the estate could be divided between them. The court ordered such an accounting because, as the document put it, there was 'un débat' about the fund's composition and value.[37] Another order from the same court called upon the heirs to 'deliver, declare, name, display, and describe all the deceased's remaining goods that were held in common';[38] a third specified that the 'biens' in question were 'meubles'.[39]

Although Paris's customary law requiring division of community property among the surviving spouse and descendent heirs certainly predated the commercial revolution's full force, as did disputes about that division, the explosion of post-mortem inventories from the fourteenth century on reflected a new uncertainty about property's value — even its identity — that was itself a direct product of commercialism. Before the movables at stake in these distributions had become commodities, people would have had little difficulty in meeting the obligation to 'deliver, declare, name, display, and describe' them. In a peasant household, for example, the house, its basic furnishing, and the equipment attaching to the tenancy itself typically passed with the tenement, thus escaping the category of movables. Personal effects of the widow (her clothing) went to her. The deceased's clothes usually were counted his sons', while any small cash hoard would be divided as the law required (in the Parisian region, 50/50 between the widow and heirs).[40] For people further up the social scale, similar rules applied, even when, as was usual for people at the top of the social hierarchy, a marriage contract or will had been written.

In a commercialized society, however, this was not so simple a process. In some legal regimes, everything in the estate short of land itself was counted as a movable — the house, the shop, the equipment, the inventories, and the financial paper. In others, the house might be classed an immovable, and thus pass directly to heirs according to custom, but its furnishings, the attached shop, inventories, etc. were often

[37] Paris, Archives nationales, Y5221, fol. 60, in G. Fagniez, *Fragments d'un répertoire de jurisprudence parisienne au XV siècle* (Paris: Société de l'Histoire de Paris, 1890), no. 82.

[38] Archives nationales, Y5220, fol. 168^{v}, in Fagniez, *Fragments*, no. 81.

[39] Archives nationales, Y5220, fol. 140^{v}, in Fagniez, *Fragments*, no. 80.

[40] Or widower and heirs, for in community property regions the process usually was indifferent to gender.

a different matter. Even when the estate was distributed according to a written document such as a will or marriage contract, these matters were not clear.[41] A man might bequeath his house and shop to his son, along with all equipment for the trade, but what of household goods? What of a woman's wardrobe (beyond the usual 'best dress' and her most personal clothing)?[42] These were not minor matters, for clothing, furniture, and household equipment were relatively precious merchandise in this age. A furnished bed, for example, could easily be worth a year's salary, and no household good had the trivial exchange value we might casually assign to the items

[41] Probate inventories themselves reflect these uncertainties. Different legal regimes imposed different rules about the requirements for drawing up an inventory, and each regime varied with respect to the kinds of goods included. In general, inventories treated only movables, but there were exceptions to that rule, and the definition of both 'immovable' and 'movable' or 'included' and 'excluded' was highly unstable. Micheline Baulant provides a useful list of factors that determined what actually got included as a 'movable' available to the community property account (Micheline Baulant, 'Typologie des inventaires après décès', in *Probate Inventories: A New Source for the Historical Study of Wealth, Material Culture and Agricultural Development*, ed. by Ad van der Woude and Anton Schuurman (Utrecht: HES, 1980), pp. 33–42): the interests of heirs or those with rights to tax the inheritance (their interest would be to exclude items from the inventory); in contrast, the interests of a widow or widower to advertise her or his possessions; in addition, the local custom concerning the rights of succession to personal property of the deceased; the same custom's traditions concerning children's possessions; the custom concerning the inclusion or exclusion of debts due (debts owed were never included, as the property of someone else, but they did show up in probate accounts).

Erickson, *Women and Property*, pp. 33–34, explains that in early modern England (where ecclesiastical courts governed disposition of movables at death), 'those moveables which were classified by arcane legal reasoning as adjuncts to a freehold — and therefore belonging to the heir — were also excluded from inventories: grass or trees on the ground; glass windows, window shutters, wainscots, coppers, leads, ovens or anything (including tables and chairs) affixed to a freehold; any object designated in a will as an "heirloom" which "customarily" goes with the freehold; vats in the brewhouse; anvils, millstones and mangers; keys in a box or chest with the owners "evidences"; hawks, hounds, doves in the dove-house and fish in the pond. Whether or not vegetables ought to be included in any inventory was the subject of some controversy among learned legal minds.

'Not even all legally eligible moveables were necessarily included in any inventory. Items bequeathed by will may not appear, having been removed from the house before the inventory was taken. Other goods were worth too little to be itemized. [. . .]

'Whereas pewter and the occasional piece of silver were separately itemized, wooden candlesticks and trenchers, small pieces of iron like rushlight holders, cups and spoons made of horn and earthenware plates and bowls were not. [. . .] Cows, pigs and sheep were itemized; chickens, ducks, and geese were usually not.'

[42] It was customary in the southern Low Countries of the late Middle Ages, for example, to grant the widow some automatic claim to certain clothing and, in some instances, household goods, which were thus removed from the divisible community of goods. For a summary description of these customs, see Godding, *Le Droit privé*, p. 301.

tucked away in our linen closets or kitchen cupboards.[43] Debts were an equally serious matter. Community property was typically distributed net of debts due (as well as expenses of administering the estate and burying the deceased), and that category of debts included all those not secured directly by heritable property but on the general credit of the borrower.[44] Thus, the bulk of debts would often be charged to the account of movables. Money borrowed for seed, equipment, livestock, or inventories; payments due on goods received; items to be redeemed from pawnbrokers — all these would become the obligation of those who held the estate's movables.[45]

---

[43] A seventeenth-century inventory from the West Suffolk Record Office listed beds and bedding at £10 10*s*. sterling, or 11% of the movable estate; another at £3 10*s*. sterling or 12% of the estate; a third at £4 6*s*. sterling, or 38%: in *Probate Inventories*, ed. by Van der Woude and Schuurman, pp. 9–12. Also see Erickson, *Women and Property*, p. 65, who comments that 'of household items, the most valuable piece of furniture was the bed' and gives as summary evidence an estimate of £2 sterling–£10 sterling for the typical bed, as compared to £2 sterling for a cow and £10 sterling–£100 sterling for a house.

I do not have such hard evidence for earlier periods on the continent, but the occasional fifteenth-century marriage contract from Douai specifying bed prices valued a dressed bed for as much as 20 pounds Flemish and in no case less than 3 pounds Flemish. A horse in that period (typically a more expensive beast than a cow) sold for between 2 pounds Flemish and 4 pounds Flemish. A will from 1328 in Douai priced a bed (given to a maid) at just under 1 pound Flemish. House prices implied in a fifteenth-century sample of business contracts from Douai (Archives municipales de Douai, FF 796) averaged about 10 pounds Flemish (all Douaisian prices are converted from the livre parisis, money of Flanders).

[44] One of the innovations in property law during this period was to attach debts to heritable property (i.e. land) but that process was slow, for it violated older principles of both feudal and customary law, which regarded immovables as familial (or lineal) and thus exempt from any claims against the current possessor. See Brissaud, *French Private Law*, p. 582. And for a thorough study of the problem and its early modern resolution in France, where customary conceptions about the distinction between movables and immovables in succession were opposed by Roman legal precepts that made the designated heir the individual successor to the deceased (and thus heir of all property, assets and liabilities alike), see Pierre Arsac, *Le Règlement des dettes successorales dans les coutumes rédigés* (Paris: Mouton, 1972).

[45] In a group of estates from the seventeenth and early eighteenth century studied by Erickson, *Women and Property*, p. 43, at least half, for some groups as much as 80%, of the value of movables in estates was lost to debts. The men Erickson studied were by and large yeoman and gentry, not merchants or artisans. For urban people, the weight of debts on movables would have been higher. Another of Erickson's tables, p. 39, summarizes evidence that of 952 probate accounts from four counties, about one-quarter ended in the red.

It is for this reason that so many women in this period renounced their right to their share of the movables, preferring to exit the estate with whatever small portion the law independently allowed them rather than assume responsibility for the debts. For a discussion of this pattern in urban culture during the period, see Martha C. Howell, *The Marriage Exchange: Property, Social Place and Gender in Cities of the Low Countries, 1300–1550* (Chicago: University of Chicago Press, 1998); for a general discussion, with telling detail, of the difficulties

In the mercantile world of fourteenth-century Paris, Gent, London, or Antwerp, drawing up a post-mortem inventory was, thus, a fraught process, likely to cause anxiety, if not outrage, on many sides. Which goods were to be included in the account, which debts attached to which category of goods? And, still worse, what price assigned? Plate, jewels, and bullion, even stores of wine or grain could be fairly readily priced, although in the unstable markets of late medieval Europe, prices fluctuated with a velocity unheard of today; a weight of silver plate might bring less today than it had when purchased, more tomorrow when it was resold.[46] Other goods were even

---

encountered in apportioning the community property account after death, see Marianne Danneel, *Weduwen en wezen in het laat-middeleeuwse Gent* (Leuven: Garant, 1995), esp. pp. 264–92.

[46] Nominal prices fluctuated wildly in this period (grain in northern France, for example, sold in 1461–70 for 42% of its 1331–40 value: John Day, *The Medieval Market Economy* (Oxford: Basil Blackwell, 1987), p. 100). According to figures published by Raymond van Uytven in *Production and Consumption in the Low Countries, 13th–16th Centuries* (Aldershot: Ashgate, 2001), grain prices in Antwerp, in silver weight, collapsed in the mid-fifteenth century, falling to about half the value of 1430; they recovered about half the loss in the late 1480s but then fell again a decade later, surpassing even the low of the mid-century. Thereafter they climbed steadily, reaching about 120% of the 1430 prices by the 1570s (p. 44). The gold/silver ratio in France fluctuated between 9.2 and 13.0 in 1310–40 and 1421–30: Day, *Market Economy*, p. 69.

Historians continue to debate the significance and causes of these shifts, and there is as yet no general agreement on either. Some historians have linked the price changes directly to demographic pressures, while others put more emphasis on monetary factors, rightly pointing out that many periods of price inflation and deflation in this age were produced by 'exogenous' changes in the money supply (new influxes of bullion, political manipulation of the bullion content of coinage, and technical innovations in finance that helped produce fiat money). Most scholars also accord importance to socio-political factors such as 'wage stickiness' caused by worker resistance to decreases or pressure for increases, consumer demands for stable food prices, or disruptions in trade caused by war or other political tensions, all of which prevented any smooth correspondence between money supply and prices or productivity and prices.

The merchants, artisans, and small entrepreneurs on whom this paper concentrates would have felt the effects of all these fluctuations, but at any particular moment an individual might have enjoyed some structural protections, depending on the composition of his assets and the source of his income — but may also have suffered disproportionately. In the case of an influx of new bullion, for example, holders of bullion (or plate) would have suffered disproportionately as prices rose, as the exchange value of their assets fell, but they would have enjoyed a windfall had a shortage of bullion driven the exchange value of their asset up. A debasement would have little effect on this asset's value to the extent that price increases matched the extent of the debasement (assuming that they were able to coin bullion without significant cost) and they might be able to reap short-term gains if price rises lagged the change in the bullion content of money. An increase, in contrast, of the money supply caused by the creation of non-bullion money would theoretically reduce the buying power of this asset. As pointed

harder to value. Certainly dresses and cloaks, benches, books, and rugs, beds and linens, pots and cutlery, armour and horses had resale value, but every estimate could be challenged, every decision open to debate, for such goods did not trade in efficiently functioning markets, but sporadically, in small trades among few buyers and sellers. No wonder, then, that Parisian courts so often spoke of the 'debates' that had brought the parties to law.

It was not just the problems of identifying and pricing these goods that made division of community property so difficult a process. The goods themselves, being movables, were quite literally *movable*. There were two important implications to this word, beyond its legal meaning. One turned on the literal meaning of 'movable'. Unlike land, movables were transportable. For example, a widow who had succeeded to half the movables in an estate (in some regimes she took all) could carry these assets with her wherever she were to go, merging them (and submerging them) into all her other movables, easily making them indistinguishable from others and removing them from visibility. If she remarried in northern Europe where effective *coverture* during marriage was the norm, they would become the full property of the new spouse, available to him, his needs, and his children. In effect, then, a widow who succeeded to movables could entirely dispossess her deceased husband's family — in some regimes, even the children she had borne him.[47]

---

out in the body of this paper, certain individuals might also be shielded institutionally, by early forms of insurance, guild benefits, or the like.

The relevant literature on this topic is huge. John Munro's extensive studies provide excellent overviews and critical analyses of both the literature and the evidence. See, among others, his *Bullion Flows and Monetary Policies in England and the Low Countries, 1350–1500* (Aldershot: Variorum, 1992); 'Money and Coinage in the Age of Erasmus', in *The Correspondence of Erasmus*, ed. by Sir Roger Mynors and others, vol. I (Toronto: University of Toronto Press, 1974), pp. 311–48; 'Monetary Contraction and Industrial Change in the Late-Medieval Low Countries, 1335–1500', in *Coinage in the Low Countries, 880–1500: The Third Oxford Symposium on Coinage and Monetary History*, ed. by Nicholas Mayhew (Oxford: B.A.R., 1979), pp. 95–161; 'Precious Metals and the Origins of the Price Revolution Reconsidered: The *Conjoncture* of Monetary and Real Forces in the European Inflation of the Early to Mid-Sixteenth Century', in *Monetary History in Global Perspective, 1500–1808*, ed. by Clara Eurgenia Nuñez (Sevilla: Editorial Centro de Estudios Ramón Areces, 1998), pp. 35–50.

[47] For example, Marie Le Grand, a Douaisien widow who had survived three husbands and, it seems, one son, wrote a will in 1402 distributing all the property she had accumulated in three marriages to twenty different people, none of them apparently related to any of her deceased spouses: Archives municipales de Douai, FF 869 (13 April 1402).

Of course, a widow who had succeeded to land left by her husband would similarly transfer possession of the property to a new husband. Few communal property regimes allowed this, however, for most kept 'immovables' or 'patrimonial property' (by which land and land rights were understood) out of the communal account, at best giving the surviving spouse usufruct on them. Further, even if land were part of the widow's succession rights, the land would possess a visibility and permanence that imaginatively at least would link it to the previous spouse and

There was, however, more to this problem, for these goods were not only physically movable, they were marketable, exchangeable for other property of any kind. Household furnishings, personal possessions, equipment, food stores, all of these once simply the means for rendering the land productive, providing basic subsistence, evidencing status, or making gifts, now were potentially commodities — things that could be sold, whose value increasingly was measured by their marketability, whose reason for existence was their marketability. Animals, the harvest of orchards, grain, all products of the land that were called chattels in law and once had been so easily assimilated to immovables in the legal imagination, were drawn into this realm as well. The animals were raised for sale, the harvest went to nearby cities, and the grain was shipped to long-distance markets; now they were truly movables, separable from the land and from the rules of transmission that governed the land.

An even more unsettling aspect of this development was the market's capacity to render all wealth abstract by equating goods through price. This abstraction fatally altered the meaning of movables (and eventually, even of immovables, even of land). Wealth that was marketable in this way was not only movable, it was fungible. It could easily be turned into other kinds of wealth — produce into jewels, jewels into clothing, clothing into rents, rents into tapestries, tapestries into land, all into coin. As fungible property, movable wealth was launderable — property whose origin could be lost from memory, from traceability. It was ephemeral — it could be lost, stolen, hidden, and rendered something else. Sold, sold for too little. All these features put movable wealth at great risk, and the unstable markets of late medieval and early modern Europe, markets that operated more like those in Moscow today than in London or New York (even in 2002), heightened the risks, for a price today was not the price tomorrow, a sale yesterday no guarantee of a sale today. In these early days of the market economy, it is important to keep in mind, few mechanisms existed for separating business liabilities from personal obligations; there were only embryonic insurance companies, not yet central banks, only primitive currency exchanges, no standardized commercial law. Any disruption of the market — and there were many — could not be controlled then as now.

This combination of features gave rise to the masses of post-mortem inventories that, from the fourteenth century forward, fill the archives of cities, towns, even villages throughout Europe. It was not law, not people's greed, not their inherent distrust of one another that produced these documents. They were a response of people who confronted an economy they did not quite trust, an indication of the effort required to manage their world. For them, the task of 'delivering, declaring, naming, displaying, and describing' their movables was daunting.[48]

---

his kin. In some cases it might be possible to sell it, but land was never as easily bought and sold (or as *necessarily* bought and sold) as cattle, wool, cloth, or other commercial goods.

[48] Agnew's *Worlds Apart* pursues a similar argument, although his study focuses on sixteenth- and seventeenth-century England which, in agreement with most scholars, he regards as the moment that England turned fully commercial. Then, he points out, the old medieval

Eventually, and still more unsettling for European society as a whole, immovable wealth would also be freed from its moorings. Even in the Middle Ages, urban real estate was in many areas treated as though it were just another movable asset, tenures separated from the buildings on them, all of them bought and sold, rented and leased, divided and subdivided as the market invited.[49] Even land outside cities entered the market, especially as the Middle Ages gave way to the sixteenth and then the seventeenth or eighteenth centuries. To be sure, rich burghers who acquired these assets often held their estates for generations, trying to remake themselves into landed aristocracy, and the old aristocracy itself clung to their estates with fervour. But bourgeois forays into the countryside, seen from the point of view of the market's later history, represented an expansion of commerce, not its slowing. The land they acquired, the buildings on them, were purchased and purchasable, mortgagable and divisible, rentable and leaseable in a way that had only begun in the Middle Ages. During these centuries, moreover, financial instruments tied to land became ever more important parts of the wealth possessed by the rich, urban and non-urban alike, and the easy circulation of these instruments further undermined the old notions about land's immobility.[50]

The commercialization of the landed economy was of course a much more leisurely process, and it unrolled unevenly across Europe. In the Middle Ages, it was only beginning and it was thus especially among urban people that commerce's effects on social relations were most starkly registered, for their wealth consisted overwhelmingly of movable goods that possessed the full mobility necessary for commodification. The marketability of these goods, their inherent economic value, and their centrality in the asset structure of the late medieval urban economy are, however,

---

markets which had been 'controlled by spatial arrangements growing out of the organization of other kinds of social exchange, including gift and tributary practices' (p. 18) were superceded by un-situated markets in which 'the very liquidity of the money form — its apparent capacity to commute specific obligations, utilities and meanings into general, fungible equivalents — bespoke the same soulless autonomy that Aristotle had once condemned as an unnatural "chrematistic" form of exchange' (p. 42).

[49] For a recent study of the complexities of real estate ownership in medieval London, see Vanessa Harding, 'Real Estate: Space, Property, and Propriety in Urban England', *Journal of Interdisciplinary History*, 32 (2002), 549–69. In some cities, Gent and Antwerp among them, property law treated houses, and in some cases their tenements (*erven*), as immovables. See Godding, *Le droit privé*, esp. pp. 143–44, and, for examples from German cities, A. von Brandt, 'Mittelalterliche Bürgertestamente: Neuerschlossense Quellen zur Geschichte der materiellen und geistigen Kultur', *Sitzungsberichte der Heidelberger Akademie der Wissenschaft, philosophische-historische Klasse*, 5 (1973), 1–32.

[50] So that, by the seventeenth century, the practical distinction between immovable and movable wealth had, in law, all but disappeared (although the terms survived). See, for one discussion of the evolution in England, G. E. Aylmer, 'The Meaning and Definition of "Property" in Seventeenth-Century England', *Past and Present*, 86 (1980), 89–97.

only part of the story, for there is a socio-cultural dimension every bit as important as the economic and one that was by no means confined within city walls. Fine dress, elaborate arms, rich furs, rugs and wall hangings, well-trained and elegantly equipped horses, dogs, and other beasts, even libraries of (seldom read) books — all these had by the late Middle Ages come to signify nobility as they had not in previous centuries. It was the same, of course, even in greater measure, for burghers. Whether they were merchants, artisans, lawyers, or day labourers, city dwellers used dresses and cloaks, books and plate, furs and jewels to mark social place — both to claim affinity to nobles if they could do so and also to differentiate among themselves.[51]

The Arnolfini marriage scene reproduced in this essay (fig. 1) illustrates this point with particular clarity. Painted in 1434 by Jan van Eyck, a Fleming who served in the Duke of Burgundy's court, it depicts a man and woman from prosperous merchant families living in Bruges, one of the centres of northern Europe's commercial revolution. The couple is placed in a bourgeois interior, surrounded by objects that evoke an excess of associations regarding marriage — its sacramental status, its carnality, its power to make and unmake political relations, its function as the bedrock of community, and so on.[52] But another layer of meaning adheres as well, a meaning derived from the luxuriousness of the objects on view, their evident commercial value, and their role in the couple's lives. Arnolfini wears velvet and furs, probably sable; his wife is adorned in rich woolens and ermine; they and their chamber are decorated with gold, bronze, brass, silver, and carved objects, with draperies and rugs worth small fortunes. Oranges, an unimaginably precious commodity in the fifteenth century, lie about. The bed itself is an object of 'estate'. While certainly a reference to conjugal sex and procreation and a reminder of the woman's material contribution to the marriage, for it was traditionally the bride who provided the marriage bed, the bed is also eloquent testimony to the couple's identification with movable wealth. This handsome bedstead, dressed with down coverlets and hung

[51] The importance of movable wealth in establishing social place in late medieval and early modern Europe is widely recognized. Histories of consumption, which are moving backward in time from the eighteenth century to the sixteenth, even to the fourteenth and fifteenth centuries, have foregrounded the issue, but the subject is even more firmly embedded in the rich scholarship on sumptuary regulation. See, for one overview, Alan Hunt, *Governance of the Consuming Passions: A History of Sumptuary Law* (New York: St Martin's Press, 1996).

[52] The literature on this painting is vast. The basic text is Erwin Panofsky, 'Jan van Eyck's "Arnolfini Portrait"', *Burlington Magazine*, 64 (1934), 117–27; also see Edwin Hall, *The Arnolfini Betrothal: Medieval Marriage and the Enigma of Van Eyck's Double Portrait* (Berkeley: University of California Press, 1994); Linda Seidel, 'Jan van Eyck's "Arnolfini Portrait": Business as Usual?', *Critical Inquiry*, 16 (1989), 54–86; Craig Harbison, 'Sexuality and Social Standing in Jan van Eyck's Arnolfini Double Portrait', *Renaissance Quarterly*, 43 (1990), 249–91; Margaret D. Carroll, 'In the Name of God and Profit: Jan van Eyck's *Arnolfini Portrait*', *Representations*, 44 (1993), 96–132. Also see Lorne Campbell, *The Fifteenth-Century Netherlandish Schools* (London: National Gallery Publications, 1998).

Figure 1. Jan van Eyck, ‘The Arnolfini Marriage’ (oil on wood, 81.8 cm x 59.7 cm). *Printed by permission of the National Gallery, London*.

with precious fabrics coloured with medieval Europe's costliest dye — red — would have easily sold for the equivalent of today's luxury Mercedes. Contemporaries viewing this painting would have known that.

Although the portrait's many meanings derive from these commodities, it displays little anxiety about such goods; instead, it seems to express contentment, satisfaction, quiet acceptance. But that is perhaps the painter's achievement — his ability to render the scene so serenely, to deny, as it were, the ways that a couple dependent on such wealth might have interpreted and experienced their situation. To be sure Arnolfini and his bride were rich, and abundant wealth provides its own assurance. The records also show that Arnolfini (and, we can be certain, she as well) owned land and land rights so that he was not dependent solely on the kinds of objects displayed in this portrait. But the portrait captures the essential feature of their social lives — they were both from commercial families, their wealth was derived from trade and the skills required for that success. Even Arnolfini, magnificently rich merchant as he was, owed his status, as did his bride, to not to his ties to land, but to his immersion in trade and his achievements in this world. Unlike the traditional medieval aristocrat, Arnolfini's status did not derive from property that would outlast him as it had outlasted those who had passed it on to him. He and his wife owed their social place to commerce. Most urban couples in this region — and in Italy whence Arnolfini and his bride's family had originally come — were scarcely as rich as Arnolfini. Most possessed no rural property at all, instead relying entirely on movables and, at best, urban real estate.[53] Instead of assets with the perpetually productive capacity of land, they were funded by and responsible for wealth that would change form and value over the course of the marriage, wealth that had only current income value, wealth that in all likelihood they would themselves outlast.

Such a marital pair was independent, in charge of their own and their children's future to an extent unknown to previous generations, thrown together as 'partners in life'. This is surely part of the story of companionate conjugality, as many historians have suggested, and it was in some respects a liberating development, for when such couples formed nuclear households they achieved an unprecedented capacity for social mobility.[54] It also helps explain how, despite the legal tradition of *coverture* so typical of the north (which subsumed married women under their husband's person) and the strongly patrilineal bias in areas of Roman law (which had a similarly

[53] In mid-fifteenth-century Douai, for example, a minority of the *propertied* population (itself a minority of the urban residents) owned rural property or rents based on it. In a sample of seventy-five marriage contracts from mid-century, only 23% listed land or land rents as contributions to the marriage. See, for a fuller analysis of this pattern, Howell, *Marriage Exchange.*

[54] See Houlbrooke, *The English Family*, and MacFarlane, *Marriage and Love in England*, for examples of studies emphasizing this point. More recent studies, such as Schmidt, *Overleven na de dood*, Otis-Cour, *Lust und Liebe*, and Chojnaki, 'The Power of Love', depend on similar reasoning.

patriarchal effect), we nevertheless find, in the same legal texts, evidence of the mutuality of the marital bond. Men making wills, for example, regularly named their wives executors of their estates, a demanding task, we have seen, in a commercialized society; and according to many customs, wives automatically assumed that role in intestate successions. Widows were often positioned, in both custom and written convention, as guardians of underage children, which, to invoke the language typical of marriage contracts, obligated them to 'support and raise, send to school, dress and nourish, teach a trade, give food, drink and all necessities [to the children] until they married or reached majority'.[55] In a commercial society, this could be a difficult task, for the resources available for carrying out the duties were not fully secure and the task of schooling, teaching a trade, and providing 'all necessities' could be onerous. Other expressions of mutuality lace these kinds of documents as well. For example, men regularly left bequests to their wives in appreciation of their 'loyal work and service' or acknowledged their material contribution to the household in phrases like those from a Douaisien marriage document evoking 'the common labor, industry and assets' (along with, significantly, 'the conjugal love and affection they hold for one another') that had bound them in marriage.[56]

To be sure, as many scholars have pointed out, the contradiction between effective *coverture* on the one hand, and practical cooperation and mutuality on the other, set up tensions that also surface in wills, court cases, literature, and other cultural texts of the day.[57] But the same documents also expose another set of tensions to which scholars have paid less attention: the vulnerability of these household to economic downturns, trade stoppages, the loss of a shipment of raw materials or finished goods — all the day-to-day risks of commerce in late medieval Europe. These couples did not have much land to fall back on, or few of them did. They could not easily depend on families to take them in, absorb their losses into their own, or finance the next venture as people who lived in more extended kin networks secured by land could often do. Unlike those who would come after them in modern Europe, they could not look to well-funded state-like institutions for aid. While some had the good fortune of a rich and generous father or mother-in-law, a guild or confraternity who could help, or a nest egg of their own, few had extensive resources of this kind and almost no one could expect to weather such a crisis with economic standing — and social place — fully intact. Not only newly independent, liberated, these couples were also isolated, exposed, as though adrift in treacherous seas in their own boats — sometimes leaky boats.

Quenten Metsijs's famous 'The Moneylender and his Wife' (fig. 2) seems to express precisely this combination of tensions. Painted almost one hundred years after

[55] See, for a typical example, the 1437 marriage contract of Marie Du Bosquiel and Collart Tallon of Douai, she a retailer of herring, he a painter: Archives municipales de Douai, FF 613/2082 (27 April 1437).

[56] Archives municipales de Douai, FF 655/5564 (8 November 1558).

[57] See Howell, *Marriage Exchange*, for guides to this literature.

Figure 2. Quentin Metsijs, 'The Moneylender and his Wife', 1514 (oil on wood, 70.5 cm x 67 cm). *Photo: Daniel Arnaudet. Printed by permission of the Réunion des Musées Nationaux / Art Resource, NY.*

van Eyck's Arnolfini portrait, by a resident of Antwerp who surely also had first-hand knowledge of the commercial world, this is just one of countless similar scenes painted, drawn, or carved by many different hands and circulated widely during the period.[58] Metsijs's version of the scene, although the best known by far,

[58] Marinus van Reymerswaele's 'Moneychanger and his Wife', painted in 1539, follows Metsijs but presents a negative caricature of the couple. See, for studies of these and other genre paintings, Lorne Campbell and others, 'Quentin Massys, Desiderius Erasmus, Pieter

breaks the code of the convention, however, for he does not offer the customary rude commentary on merchant greed and untrustworthiness. His study is contemplative, ambiguous, subtle — qualities that account in large part for its fame. As many scholars have pointed out, his portrait does, nonetheless, provoke unease about commerce. And, I would add, about marriage. Surrounded by the implements of the husband's craft, the couple is firmly placed in a world of trade and coin, nestled among objects of luxury and value, alone except for a strange figure reflected in a small mirror. The husband is at work, serious work that the portrait seems to respect. The wife is, however, no longer at her presumptive task. Instead, she is drawn from her prayer book and studies her husband's busy-ness, perhaps in desire, perhaps in regret that, for him, commerce trumps prayer. Perhaps merely in reflection, perhaps in idle boredom. Whatever the case, this marriage is definitely disturbed by commerce — the nature of the couple's relationship called into question, the connection between their marriage and commerce foregrounded, the respective duties of man and wife somehow problematized, an uncertainty about life's meaning powerfully, if mysteriously, rendered.

The language of love, the ideal of consensual partnership, the vision of cooperation and friendship, all these elements of the companionate marriage provided a solution to the problem implicitly posed by a marriage based on movable wealth: what sealed marriage? Certainly couples like the 'money changer and his wife' did not invent these elements; they inherited them, borrowed and then reworked them into a tightly argued and authentically experienced conjugal ethic. They did so with such ease, energy, and skill because these additions to the marriage pact provided ballast to marriages profoundly dependent on property that had to be carefully managed by the couple alone, property that was always at risk, always poised to become something else, someone else's. Elsewhere in Europe, perhaps among the English aristocracy Stone, Harris, and others have studied, among Italian merchants whose lives Chojnaki has documented, or among the French professional classes Diefendorf has concentrated on, people deployed some of the same language and learned to think of marriage in similar terms. Some of them also lived from movable wealth — certainly in Venice and Florence, to a significant degree in early modern Paris, and

---

Gillis and Thomas More', *Burlington Magazine*, 120 (1978), 716–24; Max J. Friedländer, *Early Netherlandish Painting*, vol. VII (New York: Praeger, 1967); Erwin Panofsky, *Early Netherlandish Painting: Its Origin and Character*, 2 vols (Cambridge, MA: Harvard University Press, 1953); Paul Philippot, *La Peinture dans les anciens Pays-Bas: XV–XVI siècles* (Paris: Flammarion, 1994); Leo van Puyvelde, 'Un portrait de marchand par Quentin Metsys et les percepteurs d'impôts par Marin van Reymerswale', *Revue Belge d'Archéologie et d'Histoire de l'Art*, 26 (1957), 3–23; Jean C. Wilson, *Painting in Bruges at the Close of the Middle Ages: Studies in Society and Visual Culture* (University Park: Pennsylvania State University Press, 1998). Also see the web version of a paper presented at the 8th World Congress of Accounting Historians, Madrid, July 2000: Santos Redondo Manuel, 'The Moneychanger and his Wife: From Scholastics to Accounting'.

increasingly so even among Europe's aristocracy as we move forward in time — and to the extent they did would have found this language even more appropriate. But it was surely among people in cities that were islands of commerce in a world not yet comfortable with that way of making a living, particularly those in precariously small households, for whom these ideas would have satisfied so well, so easily accorded with the social situation in which they found themselves.

Late medieval Douai, an important commercial city in the French-speaking part of medieval Flanders, now northern France, has left extensive records that illuminate how disturbing such a dependence on commerce could be to marriage and the social relations it was expected to consolidate. The story of Franchoise Rohard provides a particularly telling example. A widow of about fifty years of age, in 1434 she inherited the entire conjugal estate, as customary law decreed (there being no non-communal property according to local custom). It happened that this estate included property inherited by Rohard's husband from his first wife, who had died over thirty years earlier. Children born of that first wife sued Rohard, trying to get the equivalent of that property back, for the property itself (furnishings, equipment, and some houses) was long gone. Rohard won and used the money to make marriage gifts to her own daughter (born of her deceased husband), who seems to have set up household elsewhere, and to invest in new business ventures.[59]

Had the property in question been non-marketable land instead of movables, this story would have unrolled differently. The land left by the former wife would have remained intact, visible evidence of her contribution to the marriage that produced the children whose suit lost in court. Rohard, who had customary law on her side, would surely still have won her court battle and she may well have put her daughter on the land, a move that surely would have infuriated her stepchildren just as much as they were presumably infuriated when Rohard used the money she actually received to make the gifts of movables to the daughter. The difference here is that, had land been the asset in question, all the players in this drama would have remained fixed in place, Rohard's daughter probably even living on the land, in the community, an ever-present, visible, humiliating reminder of her mother's success in court and of the injustice purportedly suffered by the stepchildren. As it was, the daughter took her marriage gifts and disappeared from our records; Rohard invested in some new businesses; the stepchildren presumably moved on.

Had Rohard's marriage been made with land, it would not, the case can serve to remind us, been free of tension arising from property relations. But the tensions then would not have been the same as they were in the commercial world Rohard actually inhabited. In a land-based economy trouble arises from the property system's rigidity. In commerce, it is otherwise; there the problem is property's mobility. Commerce, I want to insist, did not unseat a marital system that produced near-perfect

[59] Archives municipales de Douai, FF 289, fols $19^{r–v}$, 31^{v}, and 134^{r}–37^{r} (July 1434–February 1435).

social order, for what it undermined was far from perfect. But it did undo the old system's way of creating social order.

The story of Sebille Pachelorre, Rohard's neighbor and contemporary, provides us another glimpse into the commercial world of this period and the ways its particular logic could upend the social logic of marriage. Widow of a wine merchant, Pachelorre was sued for fees due on wine sales her husband was claimed to have made.[60] Unable to produce evidence that the debt had been paid, Pachelorre was charged 4 gros Flemish for each of 518 lots that had been sold — a huge sum in fifteenth-century Douai, equal to more than a year's wage for a highly skilled artisan. Whether the debts were actually due we cannot know, but it is suspicious that the claimants waited until the man's death to bring suit — against a woman whose seeming innocence about business procedures and her husband's affairs did not exempt her from responsibility for debts on his estate, debts that had arisen in commerce and originally attached to goods that were, by then, long gone. A widowhood that customary provisions about marital succession had once served to protect was thus put in jeopardy by the very property the law provided for that purpose.

Commerce's impact on marriage was not confined to the north or to regions of community property law, for areas where the marriage exchange was dotal in structure knew similar tensions. Dowries that were once composed of land that was easily measured, preserved, watched over, protected were now made up of wealth that had no fixed form, place, or value, turned over to husbands who were merchants, tradesmen, even professionals who invested in rents and annuities, all of them putting the dowry at risk. When called upon to support a newly widowed woman and to finance a new marriage for her, the dowry might well be gone and its equivalent hard to extract from heirs — heirs who might well be the widow's own children — who did not have the ready cash, who were reluctant to liquidate a business asset to make the payment, and who often delayed for months and years before finally settling the debt. The archives of Florence, where the best studies of dotal marriages in commercial societies have been done, are full of dramas bearing eloquent witness to the terrible uncertainties that beset dotal marriages made with marketable movables, stories that have been well told by scholars such as Christiane Klapisch-Zuber, Julius Kirshner, Isabelle Chabot, and Thomas Kuehn.[61] There too, as we know, people began to speak of conjugal love, friendship, companionship, and all the attributes of the companionate ideal, even if their families were seldom fully nuclear in the technical sense and even if they continued to marry under comparatively 'separatist' marital property regimes.

[60] Archives municipales de Douai, FF 289, fols 35^{v}–36^{r}, 50^{v}, 158^{v}–159^{r} (*c.* 1435).

[61] Klapisch-Zuber, *Women, Family and Ritual*; Chabot, 'La Loi'; Kuehn, *Law, Family, and Women*; and Julius Kirshner, 'Wives' Claims Against Insolvent Husbands in Late Medieval Italy', in *Women of the Medieval World*, ed. by Kirshner and Wemple, pp. 256–303.

Epilogue: Commerce's Future, Marriage's New Terms, Culture's Amnesia

Europeans propertied by commercial wealth would struggle long and hard to reduce the instabilities that beset marriages made with such wealth, and would do so with measurable success. Reforming marriage itself was part of the story, but only part. Another response, undertaken with at least equal energy and with visible effects, was to modify marital property law, seeking to limit movable property's very mobility, rendering it stable enough to serve as patrimony, as land had once served Europeans. Four examples, all from Douai but typical of strategies used everywhere, illustrate some of these mechanisms. First is a marriage contract written for Isabel Le Dent in the fifteenth century, written, it should be emphasized, to replace the communal system decreed by local custom with something more dotal-like in structure and more considerate of lineal interests. The document provided that, as widow, Le Dent have what she brought to the marriage along with dower rights to some land contributed by her husband to the marriage. The contract further stipulated, however, that if the husband sell his land during the marriage or reduce the rents it earned (presumably by selling them), he must replace the lost property with another (or others) of precisely the same value, as approved by men appointed by Le Dent's father as her trustees.[62] Another granted the widower only usufruct on his wife's real property, reserving devolutionary rights to any children or, in their absence, to her kin.[63] A third granted a widow property beyond that guaranteed as dower but only if she did not remarry.[64] A fourth allowed remarriage but required that the widow then pass her dower on to the children of the first marriage or to her deceased husband's nearest kin.[65] Legislation passed in nearby areas during the same period sought similar ends. From Paris, for example, we have sixteenth-century legislation preventing widows from making gifts to new husbands in excess of those they make to children born of the deceased spouse, again a clear effort to prevent dispersions of communal wealth out of the patriline.[66]

---

[62] Archives municipales de Douai, FF 616/2321 (23 April 1441).

[63] Archives municipales de Douai, FF 616/2366 (21 September 1442).

[64] Archives municipales de Douai, FF 875 (28 April 1443). Such provisions took many forms. For example, another from the same period secured for children of a first marriage rights to the property of their deceased father (which their mother presently controlled and was taking into a new marriage): Archives municipales de Douai, FF 616/2347 (26 November 1441).

[65] Archives municipales de Douai, FF 448 fols. 29^{v}–30^{r} (23 June 1439).

[66] Hanley, 'Engendering the State'; see, however, Carol Pixton's recent dissertation ('Widowhood in Seventeenth-Century Burgundy: The Limits of Authority', Columbia University, 2001) which emphasizes that the legislation came to be directed equally at widowers and widows; see chapter 2 in particular. The point made here, however, is undisturbed: property was being held for the patriline. Also see Lyndan Warner, 'Widows, Widowers and the Problem of "Second Marriages" in Sixteenth-Century France', in *Widowhood*, ed. by Cavallo and Warner, pp. 84–107.

In the centuries to follow there would be, in addition, more institutionalized responses to commercial wealth's volatility and the threat it posed to familial order. Banks and banking laws, liability insurance and corporate structures would render commerce less risky; pensions, health insurance, tax laws, state-supported education would transform marriages made with such wealth into vehicles for a more certain future. Together such institutions would stabilize the property on which it was based, making commercial wealth secure enough to shore up the family, in the end rendering bourgeois marriage a less risky proposition.

Once property was more firmly under control, another step was taken. Property itself — for centuries the very basis of marriage, in ideology and in practice — was written out of the marriage decision, if hardly from marriage itself. The process had two parts, neither of which belongs to the centuries that closed the Middle Ages, but to the ages that followed. Both took place at the level of representation. First, in novels, plays, newspapers, legal tracts, opera, in the visual arts as well, the marriage constituted by a property exchange — exactly the kind of marriage that to medieval people had seemed perfectly normal — would increasingly be interrogated, sometimes openly attacked.[67] Thus, even as they enjoyed lives as country gentry, Europe's early modern aristocracy would be compelled to ponder property's role in their marriages and its rich commercial classes would have to question their assumptions about the equation between money and marriage. Hogarth's 'The Marriage Settlement' (fig. 3), a very different depiction of conjugality than those offered by either van Eyck or Metsijs, mounts this critique with memorable venom. Painting in the eighteenth century, when England was well embarked on its route to capitalism,

---

There may seem to be a contradiction in this process, for what is occurring is simultaneously a full articulation of the companionate marriage and a tightening of patrilineally inflected marital property law, which seems less consistent with the notion of 'companionship'. Contradictory as it may seem, however, the historical record is clear. Such marital property and inheritance regimes were characteristic of early modern Europe's 'haute' bourgeoisie and, as much recent scholarship has demonstrated, an increasing preference of the less well-established middle classes (see in particular Jacob, *Les Epoux*, for this evidence and Howell, *Marriage Exchange*, for further discussion). It was exactly at this time, and exactly by many of these people, that the companionate marriage was widely promulgated. The temporal coincidence is, I have argued, not accidental for both were responses to pressures of the market. Other scholars have reasoned, in contrast, that in adopting such regimes the European bourgeoisie was simply aping the landed aristocracy, and it is certainly true that they had these models before them and that many merchants and professionals intermarried with the aristocracy, thus being perhaps inclined to conform to their models. But coincidence of practice does not necessarily imply imitation ('imitation', without itself being accounted for, does not explain, but describes, the process), and in any case recent empirical work has demonstrated that the patterns of change are too complex to be attributed to an impulse to copy, whether conscious or not. See, again, Jacob, *Les Epoux*, and Howell, *Marriage Exchange*.

[67] In 'Property and Widowhood in England 1660–1840', in *Widowhood*, ed. by Cavallo and Warner, pp. 145–63, Amy Louise Erickson provides examples of this pattern.

Figure 3. William Hogarth, 'The Marriage Settlement' (oil on canvas, 90.8 cm x 69.9 cm). *Printed by permission of the National Gallery, London.*

Hogarth built on a tradition of domestic painting, but crossed over between the popular and the polite, both evoking the disappearing world of the journeyman libertine — a misogynist culture hostile to bourgeois domesticity — and commenting on the world of the newly privileged capitalist class. This painting (also produced as an easily marketable lithograph) is the first of the images that make up the series called 'Marriage A La Mode'; here we see the inaugural step in the protagonist's moral and social decline — the moment when he married for money.[68]

Such critiques, along with the steady accumulation of institutional protections of the market and of the people dependent on it, allowed the marriage story to be retold once again, the second chapter of this shift in representation. By 1800, if not before, middle class marriage would frequently be portrayed as a union based *exclusively* on choice, desire, respect, affection, and friendship, the classic elements of the companionate marriage, thus seeming to repudiate 1500 years of European history. Increasingly, good marriages were imagined to be made without property or, as often, to be pure love matches that transcended the vulgarities of 'mere' property, for many stories feature impoverished gentlefolk who married well because of love — and in spite of poverty. Ideologically, if by no means in fact, property in its literal sense was dismissed from the marriage decision, finally reduced to tokens exchanged during vows and suppressed in legal clauses that would surface only in divorce or death. Marriage came to be imagined rather like it was depicted in a portrait by another Netherlandish painter, Lucas van Leyden (fig. 4).

To be sure, this picture is not necessarily a conscious representation of the fully articulated companionate marriage, although at least one scholar has been willing to make that argument.[69] In fact it may be a reference to clandestine marriage, one

[68] Recent literature on this painting, the series, and the accompanying engravings include David Bindman, *Hogarth and History Times: Serious Comedy* (London: British Museum Press, 1997); Robert L. S. Cowley, *Marriage a La Mode: A Review of Hogarth's Narrative Art* (Manchester: Manchester University Press, 1982); Arthur S. Wensinger and William B. Coley, *Hogarth on High Life: The 'Marriage A La Mode' Series from G. C. Lichtenberg's Commentaries* (Middletown: Wesleyan University Press, 1970).

[69] See Larry Silver, 'Middle Class Morality: Love and Marriage in the Art of Lucas van Leyden', in *New Studies of Northern Renaissance Art in Honor of Walter S. Gibson*, ed. by Walter S. Gibson and Luarinda S. Dixon (Turnhout: Brepols, 1998), pp. 97–107, where he concludes, p. 107, 'Lucas's Strasbourg painting [i.e., "The Betrothal"] anticipates this general cultural shift in affective marital emotion and consensual behavior normally ascribed to the following century [. . .] what Lucas has given us in his Strasbourg *Betrothal* is an exceptional work, especially for its time, of two lovers in sympathy. The painting shows a strikingly nonjudgmental and tender rendering of mutual attraction leading to a pledge of marriage.' Also see Elise Lawton Smith, *The Paintings of Lucas van Leyden: A New Appraisal, with Catalogue Raisonné* (Columbia: University of Missouri Press, 1992); Jacques Lavalleye, *Pieter Bruegel the Elder and Lucas van Leyden: The Complete Engravings, Etchings, and Woodcuts* (New York: H. N. Abrams, 1967); Max J. Friedländer, *Lucas von Leyden* (Berlin: De Gruyter, 1963).

Figure 4. Lucas van Leyden, 'De verloving' (30 cm x 32 cm).
Printed by permission of the Koninklijk Museum voor Schone Kunsten, Antwerpen.

made by consent alone, without parental permission — exactly the kind of marriage authorized (if hardly approved) by the medieval church and so futilely resisted by parents and family. In the sixteenth century when this picture was made, such a marriage was still suspect, for it had been made 'in secret', outside the view of both church and family. Even if van Leyden intended no endorsement of such unions, his is nevertheless a sympathetic portrait, for nothing in the picture suggests disapproval of what is portrayed as a love match, and whatever its particular sixteenth-century references, it nevertheless belongs to a story of how the companionate marriage came to be understood. If not in 1526–27 when this painting was said to be done, then by 1627 or 1727, the ambiguities surrounding such a portrait would fall away. It would then come to seem what it so easily seems to us: the depiction of a legitimate love match, a 'modern' marriage.

The reality was, we know, much more complicated. Property, whether in the form of land or bank accounts, continued to play a crucial role in determining marriage choices, but in the contemporary West, property's role in marriage has become scarcely visible to us. Westerners today carry much of their wealth, not as land or clothing or inventories, not even as cash or investment accounts, but as personal capital that is social and cultural. Class is marked (and bequeathed) by education, diction, health, bearing, 'taste', skills, looks (that are increasingly manufactured) — each of them the product of wealth, but each of them transformed, as though magically, from lucre into personal attributes we like to ascribe to character, genes, talent, or some other force separable from the market. Suffering a kind of cultural amnesia, we speak — and act — as though good marriages escape the market.

Lucas van Leyden's portrait, like all the paintings illustrated here, cannot be reduced to a commentary on marriage and commerce. But it cannot be understood outside of the culture that produced it, a culture being so transformed by commerce that even the most basic social institution — marriage — was no longer the same. It was in this socio-economic context, I have argued, that northern Europeans, particularly those in cities like those where van Eyck, Metsijs, van Leyden, and then Hogarth resided, took up the language of romantic love, the ideal of partnership and companionship, the promise of friendship, and the hope for sexual fulfilment and attached them to marriage with energy and skill. Once their union could not be reliably sealed by property, once commercial wealth had shown itself unable to function as land had once functioned, marriage itself had to be recast, the couple's relationship to property reworked, and the nature of their ties refigured. Deploying the tools bequeathed by years of cultural work that had taught the spiritual and moral value of conjugality and promised sexual fulfilment and friendship during marriage, Europeans — most urgently those whose wealth was commercial — would remake marriage, redefine what it meant to be 'well matched'. Simultaneously, they would build a set of institutions that would protect it and empower it to serve new social functions.

Commercial wealth did not produce the companionate marriage, not least because 'it' is not a thing. It is an unwieldy complex of attitudes and practices, one that acquires coherence and stability only in ideology where, still today, it claims hegemonic status. But it was indeed during the centuries when wealth — the first of it technically movable — fully entered commerce that heterosexual desire, friendship, mutuality, and individualist morality got firmly embedded in normative marriage. And it was no accident that the people most closely associated with this socio-cultural production were those who lived from and amidst this wealth. Its early association with the middling sorts of European society, particularly in the north, its marked emphasis on cooperation in household management, and its subsequent firm connection with fully developed middle class culture bear clear traces of property's role in that development. When a couple depended almost entirely on movable wealth for subsistence, social position, and patrimony, and when that property might disappear overnight or double in a few short years so that the material past could not

predict the material future, a couple needed to combine energies to preserve what they had and secure what they did not. To make that commitment, however, they had to fashion a bond out of sturdier stuff than commercial wealth. It is no wonder, then, that it was these people who so easily appropriated the language of love and sexual desire and so readily attached to it friendship, cooperation, mutuality, and morality, yielding the incongruous list of attributes that comprise the fully articulated companionate marriage.

The companionate marriage had, I hope to have made clear, many beginnings, some of them very distant from the ordinary people of late medieval northern European cities. Medieval Europe's poets and storytellers, its canon lawyers, bishops, priests, and preachers, its landed aristocracy and gentry — all participated in this history. If it was people living from movable wealth who most readily picked it up, whose own social practices made this form of marriage ideal, it was not solely their creation. And it certainly did not remain theirs. Even during the years that residents of Antwerp, Cologne, Paris, Amsterdam, or London were working out this vision of marriage, other Europeans were embarked on a related task. To judge from the evidence we have, people in the English countryside, in the urban palaces of Italian merchants, or in the villages of Puritan New England, spoke similarly of consent, romantic attachment, children, even if they were not always living that ideal or forming nuclear households with the same rigour as were urban contemporaries of the north. In the centuries to follow the fifteenth or sixteenth, others would appropriate this language and fashion their version of the companionate marriage, inflected by their own experiences. In the end, as the market fully escaped city walls, as commerce rendered even the category of immovable property virtually meaningless, all propertied Europeans would follow. In the end, only a companionate marriage would seem a good marriage. And, in a deliciously ironic twist, the fiction that narrated it would represent the companionate marriage as propertyless.

Gender Roles and the Marriage Market in Fifteenth-Century England: Ideals and Practices

ANNA DRONZEK

This essay is an exercise in putting together ideals about and the practice of marriage negotiations in late medieval England. The ideals come from conduct literature, books of advice directed at secular readers that sought to instruct them how to behave properly in their daily lives.[1] These works were relatively popular

[1] For further discussion of conduct literature as a genre, see, for late medieval England, Jonathan Nicholls, *The Matter of Courtesy: Medieval Courtesy Books and the Gawain-Poet* (Woodbridge: Brewer, 1985); Felicity Riddy, 'Mother Knows Best: Reading Social Change in a Courtesy Text', *Speculum*, 71 (1996), 66–86; Anna Dronzek, 'Manners, Models, and Morals: Gender, Status, and Conduct among the Middle Classes of Late Medieval England' (unpublished doctoral dissertation, University of Minnesota, 2001); for conduct literature more generally, see *Medieval Conduct*, ed. by Kathleen Ashley and Robert L. A. Clark (Minneapolis: University of Minnesota Press, 2001).

The specific texts used in this essay will be discussed as they appear in the body of the paper. Here I want to acknowledge the existence of two conduct books from the period that this article does not address: for women, Geoffroy de la Tour Landry's *Book of the Knight of the Tower* (Geoffroy de la Tour Landry, *The Book of the Knight of La Tour-Landry*, ed. by Thomas Wright, EETS, OS, 33 (London: Kegan Paul, Trench, Trübner, 1906; repr., New York: Greenwood Press, 1969), and idem, *The Book of the Knight of the Tower, Translated by William Caxton*, ed. by Margaret Offord, EETS, SS, 2 (London: Oxford University Press, 1971)); and for men, Peter Idley's *Instructions to his Son* (*Peter Idley's Instructions to his Son*, ed. by Charlotte D'Evelyn (London: Oxford University Press, 1935)). These are important examples of conduct literature from the period, but they do not fit easily with the sample presented here, being much longer and drawn from significantly different kinds of sources. Both texts rely heavily on biblical exempla, material completely absent from the conduct literature discussed in this essay. *The Book of the Knight of the Tower* uses this biblical material to reinforce its secular lessons, and while these lessons are consistent with my argument, I have chosen not to use it in this context. Peter Idley's *Instructions to his Son* does

and circulated especially among the middle classes of medieval England — wealthy merchants and the gentry, or in other words, people who were neither noble, nor peasant, nor cleric, and therefore did not fit easily into the traditional social order as defined by these three groups.[2] Written for both men and women, such books provide valuable information about the intersection of gender and status in popular ideals for behaviour in ordinary life. Evidence for marriage practice and the workings of the marriage market comes from fifteenth-century England, a period for which rich letter collections survive. [3] These collections provide important evidence into late medieval *mentalités*, with three major collections, the Paston, Stonor, and Plumpton letters, surviving from gentry families and one collection, the Cely letters, surviving from a London merchant family.[4] While these letters do not allow us to trace every detail of

address proper behaviour in a secular context, but consists mostly of a reworking of Robert Mannyng of Brunne's *Handlyng Synne*. The devotional qualities of *Instructions to his Son* thus present a fundamental contrast to the briefer, anonymous conduct books used in this essay, which drew largely on moral precepts from schoolroom texts and collections of oral wisdom. I have addressed some of the elements that set these two books apart from the bulk of conduct literature in this period in a recent paper, 'Two Fathers in Fifteenth-Century England: Peter Idley's *Instructions to his Son* and Geoffroy de la Tour Landry's *The Book of the Knight of the Tower*', unpublished paper presented at the Thirty-Seventh International Congress on Medieval Studies, Kalamazoo, 3 May 2002.

[2] The classic discussion of the medieval tripartite order is Georges Duby, *The Three Orders: Feudal Society Imagined*, trans. by Arthur Goldhammer (Chicago: University of Chicago Press, 1980); see also S. H. Rigby, *English Society in the Later Middle Ages* (London: Macmillan, 1995), for a more nuanced discussion of order in late medieval England.

[3] In contrast to many previous discussions of marriage, this essay does not draw upon legal sources, for a number of reasons. First is simply scale; although using law as theory and court cases as practice would be a valuable way to examine this topic, it is too large a project to tackle here. The other problem with legal sources, however, is their distance from the ordinary experience of most people's lives. It is unclear to what degree ordinary individuals engaged in extensive study of legal codes. Treating the law as theory in ordinary people's lives presumes that they were familiar with its precepts and understood its nuances — perhaps something of a dangerous assumption. Conduct literature, however, was popular among the middle classes of medieval England and provides a more realistic view of social theory as ordinary people understood it. Using court cases as evidence of practice has two disadvantages: first, they take place after the fact, looking in retrospect at the events that they describe; and second, they privilege conflict and dispute. Descriptions of marriage negotiations found in personal letters, while obviously also after the fact, take place closer to the events they describe. They often are written throughout the course of marriage negotiations, without knowing what will happen next, and without attempting to rearrange the narrative into a shape that will best prove their point in court. For a discussion of the role of narrative in legal texts, see Natalie Zemon Davis, *Fiction in the Archives: Pardon Tales and their Tellers in Sixteenth-Century France* (Stanford: Stanford University Press, 1987).

[4] The modern editions of these letters are *Paston Letters and Papers of the Fifteenth Century*, ed. by Norman Davis, 2 vols (Oxford: Clarendon Press, 1971), hereafter cited as *Paston*

marriage negotiations from beginning to end, they do reveal what people considered important about the process and allow fruitful comparison with prescriptive materials.

Such a comparison shows marked discrepancies between what authors of conduct books prescribed to their readers and what letter writers described to theirs. It is in these discrepancies, and how they varied according to gender, that we can see the functioning of social hierarchies in this era. Men's and women's conduct literature bear very different relationships to contemporary correspondence. According to the letters, men and women in late medieval England both spent a great deal of time and effort on finding a spouse, and conduct literature for women paid significant attention to proper ideals for marriage negotiations and the resulting alliance — unsurprisingly, given that one of conduct literature's goals was to train women as wives. In contrast, conduct literature for men paid almost no attention at all to relations between men and women in any form, within either marriage or day-to-day interactions. This disparity between standards for the two audiences suggests that authors did not consider men's behaviour in marriage an issue worthy of discussion. Men writing letters obviously disagreed, but in idealistic terms, men's behaviour in marriage was not a weighty concern. At the same time, the little attention that conduct literature did pay to marriage expressed concerns about a man's public reputation and the effect that marriage might have upon it. This anxiety, only hinted at in conduct literature, was elaborated further in personal correspondence, where letter writers revealed significant uneasiness about how marriage influenced their social standing. Men's letters concerned themselves with the public aspects of what marriage might bring and the impact that a particular marriage partner might have on a person's social standing.

This discrepancy between the two gendered ethical codes — each consistent with elements of the letters, but different from each other — is crucial because it is the gender discrepancy that shows how their authors sought to re-establish and strengthen social hierarchies under review at this time. Such a process requires most importantly that those subordinated within the hierarchy internalize the values structuring it; it is less pressing to justify it to its beneficiaries. In late medieval England, hierarchies constructed around gender — disregarding for the moment other factors like social status or age — subordinated women to men, not the other way around. Therefore, maintaining that hierarchy meant educating women, rather than men, about their proper place in it. Marriage was one arena in which this could take place. In contrast, men could be subordinate only in relation to other men and on account of their social status. Because marriage was a means to improve or damage one's status, it was relevant to men's behaviour only as part of a larger discourse about social

---

Letters; *Kingsford's Stonor Letters and Papers, 1290–1483*, ed. by Christine Carpenter (Cambridge: Cambridge University Press, 1996), cited hereafter as *Stonor Letters*; *The Plumpton Letters and Papers*, ed. by Joan Kirby, Camden Fifth Series, 8 (London: Cambridge University Press for the Royal Historical Society, 1996), cited hereafter as *Plumpton Letters*; and *The Cely Letters, 1472–1488*, ed. by Alison Hanham, EETS, OS, 273 (London: Oxford University Press, 1975), cited hereafter as *Cely Letters*.

status, not as a factor in gender relations. This conservative desire to maintain status and gender inequalities appears most clearly where the models in the prescriptive literature and the actions described in the letters overlap.

Thus while conduct literature for women, seeking to normalize women's subordinate place in this hierarchy, addressed the impact of marriage on women's domestic lives at length, it was apparently unnecessary for men's conduct literature to devote any attention to this aspect of the topic. Authors writing for men had little need to justify their audience's position at the top of the gender heap. Whatever turmoil and anxiety the changes of the late Middle Ages brought to English society, the ideological position of men in relation to women remained firmly and unequivocally patriarchal, something with which men did not need to concern themselves. Instead they, like women, were expected to reserve their anxiety for the ways in which marriage affected their relations with men.

That marriage negotiations were important to people in late medieval England is a proposition that requires little defence. Nonetheless, the letter collections make clear the anxiety that they could inspire and the difficulty of concluding them successfully, describing abortive marriage contracts that began with promise and ended in disappointment.[5] In 1480 Robert Cely, a London wool merchant, decided to break off his engagement to a woman named Joan Hart. His brother Richard wrote to the third brother, George, that '[Robert] has geuen her ower, and he pwrpos to absente hymsellfe and com to Calles schorttly'.[6] Soon after, their father also wrote to George on the matter:

> I fele Robard Cely ys at Bregys for fere of fytyng at Caleys into Beschepys corte for the lvde mater of Jonne Harthe, the weche ys meche adoe for at London. The frendes of here hath spoke wyt me for that mater, but all they wyll not grant a grote for [to] ȝeve them, werefor I haue sayd to them I wyll not ȝeve them a peny of my good, werefore I understand sche wyll falle of for to haue all the ȝetys that Robard hath delyuered her, and to haue all Robard Cely hathe of herys; [. . .] But and Rabard Cely were wyse and wylle avysyd, all thys wyll be layd aperte wylle now, for ys undoe and he wede her.[7]

[5] For an examination in the secondary literature of the problems medieval people faced in arranging appropriate marriages, see R. H. Helmholz, *Marriage Litigation in Medieval England* (Cambridge: Cambridge University Press, 1974), esp. pp. 25–73; a nice example of one case involving the complexities of marriage contracts is Frederik Pedersen, *'Romeo and Juliet of Stonegate': A Medieval Marriage in Crisis*, Borthwick Papers, 87 (York: Borthwick Institute of Historical Research, 1995). For a broader discussion of how marriage opportunities related to wider social factors, see P. J. P. Goldberg, *Women, Work, and Life Cycle in a Medieval Economy: Women in York and Yorkshire c. 1300–1520* (Oxford: Oxford University Press, 1992).

[6] *Cely Letters*, p. 73 (letter 83). 'He has given her over, and he intends to absent himself and come to Calais shortly.' All modernizations from the Middle English are my own.

[7] *Cely Letters*, p. 75 (letter 85). 'I feel Robert Cely is at Bruges for fear of fighting at Calais in the bishop's court for the sorry matter of Joan Hart, the which is much ado for all at London. Her friends have spoken with me for that matter, but they will not grant a groat to

Robert's brothers and father, who bore much of the responsibility of extricating Robert from this entanglement, doubtless found the situation even more trying because of its economic risks; a description of some of the gifts that the couple exchanged makes clear that considerable sums were involved. In the end Joan kept the goods she had given Robert and those he had given her, 'saue a gyrdyll of gould wythe the bokyll and pendawnte sylluer and gylte, and a lyttyll gold ryng with a lyttyll dyamond, and a typete of damaske'.[8] In addition, George had to pay for Robert's board in Calais and provide him with ready cash. Robert's flight to Bruges, the pressure he faced from Joan Hart and her supporters, the degree to which his brothers and father were dragged into the situation, and the value of the gifts concerned provide a cautionary example of what could go wrong on the marriage market. Negotiating a marriage was not easy.

Other examples of the tribulations of the marriage market come from the Paston and Stonor letters. Agnes Paston's despair over the difficulty of marrying off her daughter Elizabeth (a process that lasted nearly ten years) and the beatings she inflicted on the girl in the hopes of subduing Elizabeth's will on the matter to her own are familiar to historians of late medieval England and are quoted in virtually every discussion of the Pastons, especially the Paston women.[9] The search for a suitable candidate for Elizabeth spread well beyond the Pastons' immediate family, and figures ranging from Elizabeth Clere, a close family friend, to Edmond Lord Grey, first earl of Kent, wrote to John Paston I proffering suitors for Elizabeth. The request with which Elizabeth Clere closed her long letter of advice makes clear the tension such a search could create: 'Cosyn, I prey ȝow brenne this letter, that ȝoure men ne non other man se it, for and my cosyn ȝowre moder knew that I had sent yow

give them, wherefore I have said to them I will not give them a penny of my goods, wherefore I understand she will withdraw [her suit] if she can have all the acquisitions that Robert had delivered her, and have all [the gifts] that Robert Cely has of hers; [. . .] But if Robert Cely were wise and well-advised, all this will be laid well apart now, for he is undone if he weds her.' I have modernized 'frendes' as 'friends', but it could also refer to Joan Hart's family.

[8] *Cely Letters*, p. 76 (letter 86). 'Save a girdle of gold with the buckle and pendant silver and gilt, and a little gold ring with a little diamond, and a tippet of damask.' This letter also explains that 'hyt is so be grehyt labor that the whoman that howr brother Robard whos tangyllyd wyth, sche has made hyme a qwyetans'.

[9] Early in 1454 Margaret Paston wrote to her husband John I that Agnes 'wold neuer so fayn to haue be delyueryd of her [Elizabeth] as she woll now': *Paston Letters*, I, 254 (letter 150). H. S. Bennett's classic *The Pastons and their England* (1922; repr., Cambridge: Cambridge University Press, 1979) devotes much of his chapter on marriage to the woes of Elizabeth Paston. Here I would agree with Rebecca Jane Coogan that discussion of the Paston women has been distorted by the almost exclusive attention paid to their role as mothers (almost uniformly deemed negative) and as marriage candidates. The tendency has been to discuss Agnes and Margaret as cruel mothers and not to explore any complexities in their family roles. See Coogan, 'Constructions of Margaret Mautby Paston' (unpublished doctoral dissertation, State University of New York at Binghamton, 1994).

this letter sche shuld never love me'.[10] (Thankfully, John I neglected to carry out her wishes.) Finally, Thomas Mull, a family friend of the Stonors, played an important advisory role in William Stonor's attempts to find a wife, sending long letters filled with advice on a number of different attempted negotiations.[11]

All these letters demonstrate the care that marriage negotiations required, down to the last detail, and the intense anxiety they might generate. But how does this evidence of people's concerns about their own lives compare with the evidence of prescriptive literature? How were people supposed to approach marriage negotiations? Here we see a clear breakdown by gender. Conduct books for women echoed the letters' concerns, in part because they envisioned marriage as almost the only role for women and intended to prepare women fully for a productive marriage.[12] More specifically, they expressly encouraged the kind of caution and care about arranging marriages which can also be seen in the correspondence. 'The Good Wyfe Wold A Pylgremage', an anonymous fifteenth-century conduct poem for women, emphasizes the importance of making sure that a marriage was arranged legally and bindingly:

> Doȝttor, o thinge I the forbede: vse not for to swer.
> Keppe thy hondys and geyfe no trevthe, for weddynggys bythe in wer.
> He is a foll that wyll be bonde whyll he mey forber.
> A lowely lokynge and a porse makys follys her and ther.
> Witt a O and a I, assay or euer thow trust;
> When dede ys doun, hit ys to lat be war of 'Had-Y-wyst'![13]

The poem warns that a woman who thought she had made a binding contract might yet find herself abandoned. This advice was entirely reasonable in late medieval England, when the issue of what constituted a binding marriage contract could be very complicated, filling the ecclesiastical courts with couples who had conflicting

[10] *Paston Letters*, II, 96–97 (letter 500). 'Cousin, I pray you burn this letter, that your men nor no other man see it, for if my cousin your mother knew that I had sent you this letter, she should never love me'.

[11] *Stonor Letters*, pp. 213–15 (letter 123). In this case the marriage negotiations were unsuccessful.

[12] 'The Good Wyfe Wold A Pylgremage' does briefly acknowledge the possibility of a woman remaining unmarried; see *The Good Wife Taught her Daughter*, ed. by Tauno F. Mustanoja, Annales Academiae Scientiarum Fennicae, Sarja B; nide 61, 2 (Helsinki: Suomalaisen Kirjallisuuden Seuran, 1948), p. 175. Otherwise marriage is the only option these works imagine for their audience.

[13] *The Good Wife Taught her Daughter*, ed. by Mustanoja, pp. 174–75, lines 55–60. 'Daughter, one thing I forbid you: do not swear. / Keep your hands and give no troth, for weddings are unsure. / He is a fool that will be bound while he may forbear. / A lovely looking and a purse make fools here and there. / With an O and an I, try before ever you trust; / When the deed is done, it is too late to say "Had I known"!'

ideas about how far they had committed themselves.[14] The Celys' efforts to extricate Robert from his match show exactly what the conduct literature for women warned against (if from the other side of the transaction) — a young man trying to escape from a contract into which he had entered. The poem may also express parental concern about the fact that, according to canon law, medieval women and men of age could bind themselves simply by swearing vows to each other, without any parental supervision or control.[15]

Conduct literature for women also emphasized the importance that friends played in marriage negotiations, again echoing the letters and highlighting the delicacy of the process during this period. Medieval people expected a woman's friends to vet any prospective marriage candidates, and if need be, to enforce a contract. 'The Good Wife Taught her Daughter', another anonymous late medieval conduct poem for women, warns: 'ȝif any man bidde the worschipe, and will wedde the, / Auysely answer hym; scorne hym noght, what he be. / Schewe it [the proposal] to thin frendis, and forhele it not.'[16] This prescription was clearly carried out by those such as Thomas, Elizabeth Clere, and Joan Hart's anonymous friends, who can be seen fulfilling these roles in the letters' descriptions of marriage making.

Ideals in the conduct literature for women were thus concerned with the same issues that dominated medieval marriage negotiations. Ideals in conduct literature for men, however, were not. While letters and conduct literature for women did not always focus on the same elements, both did treat marriage as a subject of importance. Conduct literature for men, however, showed virtually no interest in advising men about relations of any kind between men and women, let alone in marriage.

Only two exceptions to this rule exist, and both are brief. First, the Sloane *Boke of Curtasye* devotes twelve lines (out of 848) to women. The anonymous author notes,

---

[14] Helmholz, *Marriage Litigation in Medieval England*, pp. 25–73.

[15] For an example of the conflict that might arise in such a situation, see Pedersen, *'Romeo and Juliet of Stonegate'*; in the course of this case Agnes Huntington stated that she had sworn a binding marriage vow with John of Bristol, but her mother threatened Agnes with a 'maternal curse' if she consented to anything other than a marriage conditional on her parents' consent, and additionally threatened to break the legs of a witness supporting Agnes's version of events (pp. 7–8). P. J. P. Goldberg has pointed out that because of the legal requirements of marriage litigation, it is difficult to take such extreme accounts of events at face value. When a litigant wanted to prove duress in order to invalidate a legal action (such as a marriage contract), as Goldberg notes, 'to claim an imminent and explicit threat of grave physical violence would carry more weight than some vaguer and less tangible threat' ('Fiction in the Archives: The York Cause Papers as a Source for Later Medieval Social History', *Continuity and Change*, 12 (1997), 425–45 (p. 438)). Thus we cannot be sure that Agnes's mother's 'maternal curse' was a legitimate threat or not. Nonetheless, even if the imagery is inaccurate, it doubtless expresses a real conflict.

[16] *The Good Wife Taught her Daughter*, ed. by Mustanoja, p. 159, lines 20–22. 'If any man bid thee worship and will wed thee, / Wisely answer him; scorn him not, whatever he be. / Show the proposal to thine friends, and conceal it not.'

'Speke neuer vnhonestly of woman kynde / [. . .] For alle we ben of wymmen born, / And our fadurs vs be-forne.'[17] He then goes on to discuss the relationship between husbands and wives, but although the book was written for men (as the admonition to speak well of women, as a group distinct from the audience, confirms), the four lines he assigns to marriage actually say nothing about how men should behave. Instead, they state that 'also a wyfe be, falle of ryȝt / To worschyp hur husbonde bothe day and nyȝt, / To his byddyng be obediente, / And hym to serue with-outen offence a woman should'.[18] Therefore, although the poem does discuss marriage, its author considers it unnecessary specifically to advise men on how to behave as husbands, simply reminding them instead of their wives' responsibilities. Eight lines on how men should behave towards women, out of 848 (less than 1% of the poem), shows the author's lack of interest in the topic.

The second exception is somewhat more substantial. 'How the Wise Man Tauȝt his Sonne', yet another anonymous fifteenth-century conduct poem, this time written for men, includes five stanzas of advice on how to choose a wife and how to treat her once acquired, rendering it the only text actually to address the question of how a husband should act. Unlike the letters and conduct literature for women, it makes no reference to the importance of friends in making sure a promise of marriage was binding, although the poem advises the reader to 'wijseli enqweere of al [the prospective wife's] lijf, / And take good hede, by myn avice, / That sche be meeke, curteis, and wijs'.[19] Also unlike the letters (which often carefully detailed a potential bride's financial assets, a subject to be discussed further below), the Wise Man advises against choosing a rich wife: 'Thouȝ sche be poore, take thou noon hede, / And sche wole do thee more good service / Than a riccher, whanne thou hast neede.'[20] As for how to behave towards a wife, the poem warns its readers to treat a 'meeke and good' wife well by ruling her 'fair and eesily', and not oppressing her with too 'greuous' a charge. If a husband treats an obedient wife too harshly, it 'makith grijf to growe whann it is no nede'.[21] Thus, as women should speak gently to their husbands, so too should husbands speak to their wives.

In the conduct literature for men, these brief comments alone acknowledge that women's proper behaviour required certain standards of behaviour on the part of

[17] *The Babees Book*, ed. by Frederick J. Furnivall, EETS, OS, 32 (London: N. Trübner & Co, 1868; repr., New York: Greenwood Press, 1969), pp. 306–07, lines 259–64. 'Speak never dishonestly of womankind / [. . .] For we were all born of women, / and our fathers before us.'

[18] *Babees Book*, ed. by Furnivall, p. 307, lines 267–70. 'A woman should / worship her husband both day and night, / to his bidding be obedient, / and serve him without offence.'

[19] *Babees Book*, ed. by Furnivall, p. 50, lines 75–77. 'wisely inquire about all her life, / And take good heed, by my advice, / that she be meek, courteous, and wise.'

[20] *Babees Book*, ed. by Furnivall, p. 50, lines 78–80. 'Though she be poor, take no heed, / and she will do you more good service / than a richer [wife], when you have need.'

[21] *Babees Book*, ed. by Furnivall, p. 50, lines 81–88. 'Makes grief to grow when there is no need'.

their husbands. When considered relative to the surviving corpus of conduct literature for men, these references are scanty indeed. This lack of attention to the matter of choosing a wife and interacting with her on a daily basis shows that authors of conduct literature for men were unconcerned with reinforcing a gender hierarchy.

What little attention they did give to marriage, however, differed qualitatively from the material dealing with marriage in conduct literature for women, and concentrated instead on the way that marriage influenced a hierarchy based on status. While conduct literature for women told them to speak gently to their husbands for private or domestic purposes — in order to win their husbands' approval — conduct literature for men focused on more public matters. The Sloane *Boke of Curtasye* admonishes the reader not to speak dishonestly of women, a moral offence for which 'the book calls him a churl of cheer' — or in other words, his rank or status in the public eye would decline.[22] Similarly, the Wise Man tells his son not to defame his wife for fear of encouraging other men to do the same. To slander one's wife would be to damage her reputation and lower her position in the eyes of other men. The poem concludes this section by advising the reader not to trust his wife's complaints against other individuals until they had been fully verified, to avoid getting entangled in a conflict that both would later regret. Such a conflict would presumably involve people from outside the couple's household, influencing the husband's status in the community.[23]

The letter collections show that letter-writing men shared this concern about the impact of marriage upon their status, a concern made especially clear by the qualities that correspondents sought in their wives. Men focused on traditionally desirable characteristics in a prospective wife — good looks and wealth — although the discussions of women's appearance leave it unclear as to whether correspondents sought a woman who was actually beautiful, or simply healthy and fertile. Richard Cely wrote of one woman: 'Sche ys as goodly a ȝenge whomane: as fayr, as whelbodyd and as sad as I se hony thys vij ȝeyr, and a good haythe.'[24] One correspondent described a potential wife for Sir William Stonor as 'so foul that Parker would have none of her'; but a second opinion deemed her

> But lytyll and sumwhat rownde a goode woman and well-disposid, save only that she ys sumtyme vexyd with the moder, as ye have hird, and ys xxvij yere of age. My lord

[22] *Babees Book*, ed. by Furnivall, p. 307, line 261.

[23] *Babees Book*, ed. by Furnivall, p. 51, lines 97–102, 107–12.

[24] *Cely Letters*, p. 106 (letter 117). 'She is as goodly a young woman: as fair, as well-bodied and as serious as any I have seen this seven years, and a good height'. The Middle English word *sad*, which I have translated here as serious, might also mean sated or contented; see Jill Mann, 'Satisfaction and Payment in Middle English Literature', *Studies in the Age of Chaucer*, 5 (1983), 17–48. Certainly a contented wife would be more desirable than a discontented wife, as the latter would, according to medieval perspective, be much more difficult to handle.

> thynkyth she wer for you, if you be pleased, for his pynyon ys that beryng of children shuld ease hire infirmyte.[25]

Other letter writers focused on more liquid assets, as in Edward Plumpton's 1497 letter describing the woman he wished to marry as 'goodly & beautyfull, womanly and wyse, as euer I knew any, non other dispraysed, of a goode stocke & worshipfull',[26] and, importantly, as having

> in charge but one gentlewoman to her daughter, of xij yer age. She hath xx mark of good land within iij myle of London, and ryall maner buyld thervpon, to giue or sell at hir pleasure. She hath in coyne old nobles cl, in ryalls cl, in debts xl *li*, in plate cx *li*, with other goods of great valour; she is called worth iij *li* beside her land.[27]

When, in 1472, Thomas Mull wrote to Thomas Stonor describing a potential partner for Stonor's son William, he noted her wealth in a long paragraph of excruciating detail:

> Shee was late wyf unto the son of my lorde Montjoy: and for the certente what my cosen [William Stonor] shall have with her, yf God provide for them that they shall go throwe in mariage, suer yt is that of her ffader's enheritaunce she hath in possession C. marks of lande, and after the deth of her ffader shee shall have over that the half of al the residue of al the lande of her ffader, and of my lorde Mountjoyes lande shee hath iiij^{XX} marcs of annuite fe by dede endentid, for wher the lande was in value C. marcs shee hath layn it ayen to my seid lord for yelding her yerly iiij$_{XX}$ marcs. Thes certentees I have by my bedfelow Thomas Powtrell [. . .] and as I understond by my seid bedfelowe the hole value of syr Thomas Ichyngham [the woman's father] is londe, as it was at the tyme of the seid mariage [to Montjoy] makyng shewyd in

[25] *Stonor Letters*, p. 382 (letter 290). 'Only little and somewhat round, a good woman and well-disposed, except that she is sometimes vexed with her womb, as you have heard, and is twenty-seven years of age. My lord thinks she were for you, if you would be pleased, for his opinion is that bearing of children should ease her infirmity.'

[26] *Plumpton Letters*, p. 118 (letter 121). 'Goodly and beautiful, womanly and wise, as ever I knew any, [by] none other dispraised, of a good stock and worshipful.'

[27] *Plumpton Letters*, p. 118 (letter 121). 'In charge but one gentlewoman for her daughter, of twelve years of age. She has twenty marks of good land within three miles of London, and a princely manor built thereupon, to give or sell at her pleasure. She has in coin 150 nobles, 150 royals, in debts 40 pounds, in plate 110 pounds, with other goods of great value; she is said to be worth 3 pounds [a year?] besides her land.' Edward Plumpton seems equally captivated by this woman's personal qualities, however, as he continues to extol her virtues in his next two letters to Sir Robert, praising her as 'indued with great grace & vertue [. . .] wyse and goodly & of great substance & able for a better man than I am [. . .] amyable & good, with great wysdome & womanhood [. . .]. [of] great gentlenes and noble myne': *Plumpton Letters*, pp. 119–21 (letters 122–23).

> writyng, was between CCC. and CCCC. marcs, not fully CCCC. and better than CCC., but how much it ys oute of the remembraunce of my seid bedefelowe.[28]

Almost as an afterthought he added, 'And for certeine shee is well named, and of worshipfull disposicion.'[29]

Although it is hardly news that medieval men considered the fiscal health of their potential marriage candidates to be as important as their physical health, perhaps more interesting are the adjectives that correspondents used to describe these women and how they recalled issues of reputation and honour, especially '*sad* [i.e., the Middle English word for sober, serious, or grave, or satisfied and contented]', 'good', '[by] none other dispraised', 'of a good stock', 'worshipful', and 'of good reputation'. This emphasis on honour or reputation shows the importance that public opinion played in men's minds as they carried out their negotiations. For instance, one meaning for the medieval term 'worshipful' was 'worthy of respect; reputable; honourable', 'distinguished in respect of character or rank; entitled to honour or respect on this account'.[30] This definition emphasizes public approval in assessing a woman's worth. The quality of being entitled to honour or respect necessarily entailed the judgement of other people; a 'worshipful' woman was worthy of honour and respect *from others*. Thomas Mull and Edward Plumpton both admired the good name of their potential wives; their candidates were by 'none dispraised' and 'of good reputation'. These qualities judged women according to their status in the public eye. Reputation was a quality determined entirely by 'repute' or 'rumour' — by what a community said about a person whether or not what was said was accurate.[31] Conduct literature for women acknowledges this medieval truth: 'The Good Wyfe Wold A Pylgremage' warns women that 'A slaunder that is reised is euell to fell, /

---

[28] *Stonor Letters*, p. 212 (letter 121). 'She was late wife unto the son of my lord Montjoy: and as for what my cousin shall have with her, if God provide for them that they shall go through in marriage, sure it is that of her father's inheritance she has in possession 100 marks of land, and after the death of her father she shall have over that half of all the residue of all the land of her father, and of my lord Mountjoy's land she has 40 marks of annuity in fee by deed indentured, for where the land was in value 100 marks she has laid it again to my said lord for yielding her yearly 40 marks. These certainties I have by my bedfellow Thomas Powtrell [. . .] and as I understand by my said bedfellow the whole value of Sir Thomas Ichyngham's land, as it was showed in writing at the time that they made the said marriage, was between 300 and 400 marks, not fully 400 and better than 300, but how much exactly, it is out of the remembrance of my said bedfellow.'

[29] *Stonor Letters*, p. 212 (letter 121). 'And for certain she is of good reputation, and of worshipful disposition.'

[30] The former definition comes from Hanham's glossary to the *Cely Letters*, s.v. 'wor(s)chepf(f)ull'; the latter is from the *OED*, s.v. 'worshipful'.

[31] For a fuller discussion of repute, see Barbara A. Hanawalt, *'Of Good and Ill Repute': Gender and Social Control in Medieval England* (Oxford: Oxford University Press, 1998), esp. pp. ix, 1.

My leue child'.[32] Again, we see that men's concern in making marriages was to maximize the benefit to their social standing or position within the community, rather than with justifying their position of dominance over their future wife. While conduct literature for men pays little attention to marriage arrangements, the few comments it addresses to the subject emphasizes status in a way that is clearly paralleled in the letters of fifteenth-century men.

If men sought wives who were wealthy and fertile, who would enhance their social status, what kinds of husbands did wives seek? Unfortunately the letters are much less revealing on this score. While these documents provide an abundance of material for medievalists to work with, they nonetheless remain dominated by men and male concerns. Fewer women than men are represented in these collections overall, and although from some women (such as Margaret Paston) we have volumes of surviving letters, from others (such as George Cely's wife Margaret) we have only one, and from others (such as George Cely's mother) we have none. And as the letters that do survive from women are overwhelmingly addressed to men (usually relatives), men's business and their opinions remain prominent.

A few tantalizing examples provide the opportunity for some speculation. Margery Paston's comment to her husband that 'Kateryn Walsam xal be weddyd on the Munday nexst after Trinyté Sonday, as it is told me, to the galawnte wyth the grete chene' may suggest that women too paid attention to the physical charms of potential husbands, although with perhaps less direct reference to their fertility.[33] When William Stonor was considering marriage with a wealthy heiress, Margery Blount, Thomas Mull wrote a long letter, apparently to clear up a misunderstanding on William's part that was hampering the progress of the match:

> But and I understode that she had seyd to you thes wordes: 'Syr, I wold not have you, but yt so bee that I may have C. li. or CC. marcs with you in joyntur': Syr, then it had ben a mater by which ye myght conceyve that shee then had loved your londe better then your self. But I understond that ther wer no such wordes, but I conceyve the wordes wer thees: 'Syr, I may have CCC. marcs in joyntur, and I to take the lesse when I may have the more, my ffrendes wold thenke me not wyse &c: and howe be yt, your ffader wol not geve me, yet lette hym do well to you'. In which wordes I understond noon utter nay. But and ye in your mynde conceyve that she hath yoven you an utter nay, then shall ye by myn assent never speke more of the mater, but lette yt goo [. . .]. But for al thys resonyng I wold knowe this of you: and [if] the case wer so that shee wolde ben agreable to have you with xl. li. or iiij^{xx} marcs joyntur, wolde your herte then love as ye have doon before thys seson? [. . .] But oon thyng I dar safly sey in my conceyte, that shee on her parte sithe your departier hath ben vexed and trowbelyd with the throwes of love more fervently in her mynde then ye have ben syth

[32] *The Good Wife Taught her Daughter*, ed. by Mustanoja, p. 159, lines 24–25. 'A slander that is raised is evil to fell, / my dear child.'

[33] *Paston Letters*, I, 222 (letter 128). 'Kateryn Walsam shall be wedded on the Monday next after Trinity Sunday, as it is told me, to the gallant with the great chin.'

> vexid with her seyinges. And this my cause so to sey and deme, I know oonys for certeyn shee loved you as a parfyte lover.[34]

Whether William's or Mull's interpretation was correct, Mull's letter suggests that women as well as men concerned themselves closely with the financial elements of marriage making. But this is hardly surprising, given how closely a woman's financial fortunes were connected to her husband's. Interestingly, William Stonor was clearly reluctant to be deemed marriageable only because of his money, and Thomas Mull clearly felt it important that Margery should appear to be in love with William, describing her emotional state in remarkable detail. What we cannot know from this letter is whether William considered himself in love with Margery and sought a return of that affection, or whether he felt that a loving wife was appropriate for other reasons. And this direction of analysis moves us again away from what women sought in marriage and back to men's interests. Thomas Mull's description of Margery's feelings is an unreliable guide to what she actually felt. Unfortunately, the letters reveal little more about women's interests in marriage making. Even if the reason why it took so long for the Pastons to find Elizabeth a husband was because she kept rejecting candidates put before her (which may not have been the case), we do not know on what grounds she refused them.

The brief references to marriage and husbandly behaviour in the conduct books for men are revealing in themselves, emphasizing the importance of one's wife's stature in the public eye. Marriage was also extremely peripheral to the general focus of conduct literature for men. While marriage was central to conduct literature for women — the opening line of 'The Good Wife Taught her Daughter', for instance, read, 'Daughter, if thou will be a wife' — and significant in the letter collections, it was marginal to masculine codes of ethics according to conduct literature.[35] Seeking to

---

[34] *Stonor Letters*, p. 214 (letter 123). 'If I understood that she had said to you these words: "Sir, I would not have you, unless it so be that I may have 100 pounds or 200 marks with you in jointure"; Sir, then it would be a matter by which you might conceive that she loved your land better than yourself. But I understood that there were no such words, but I conceive the words were these: "Sir, I may have 300 marks in jointure, and [were] I to take the less when I may have the more, my friends would think me not wise etc.: and howbeit, [if] your father will not give *me* [the amount], yet let him do well to *you*". In which words I understand she has not said no to you. But if you in your mind conceive that she has given you an utter no, then you shall by my assent never speak more of the matter, but let it go [. . .]. But for all this reasoning I would know this of you: if the case were so that she would be agreeable to have you with 40 pounds or 80 marks jointure, would your heart then love as you have done before this season? [. . .] But one thing I dare say safely in my conceit, that she on her part since your departure has been vexed and troubled with the throes of love more fervently in her mind that you have been since vexed with her sayings. And [with] this my cause so to say and deem, I know once for certain she loved you as a true lover.'

[35] The Middle English word 'wijf' could mean 'woman', not necessarily 'wife', but the nature of the poem's advice suggests that the author intended primarily to prepare girls for

be a good man did not entail worrying very much about how to be a good husband. The failure of men's conduct literature to address marriage, however, does not mean that marriage was not important to men; the evidence from the letters shows that marriage was certainly as important to men as to women. Rather, this omission in the conduct literature reveals that men's behaviour in marriage, unlike women's, was not a concern to authors and readers of conduct books. Even the examples from the letters cited above show a greater concern for women's behaviour in marriage than men's. A man's concern with marriage, in principle and, it seems, in practice, was with arranging the right one, where the 'right' marriage would enhance his standing in the public world of other men. *Becoming* married was crucially important, but *being* married — the man's behaviour as a husband — was not. Men's conduct books' disinterest in marriage more likely reflects and results from a man's role as the paterfamilias of his household, which placed him at the top of domestic hierarchy. In the domestic context, a man's rank was clear and therefore no discussion of his appropriate behaviour was necessary. Even in 'How the Wise Man Tauȝt his Sonne', advice about how a husband should behave toward his wife largely encompassed situations in which the marital relationship impinged upon the man's public persona.[36]

Certainly this essay does not address all the possible sources for ideal and practice. Other sources of theory, such as law or literary texts, would reveal very different perceptions of ideal masculine behaviour. For instance, Isabel Davis has discussed the image presented in William Langland's poem, *Piers Plowman*, of the male householder policing his household to regulate sexual behaviour, a portrayal that accords poorly with the indifference of the conduct books.[37] Nonetheless, conduct literature represented one significant discourse in late medieval England. This comparison of conduct literature and letters demonstrates that actual readers and letter writers had a range of models to draw upon in their understanding of marriage negotiations, and suggests the interdependence of gender and status for stabilizing and maintaining social order in the fifteenth century.

---

marriage. Unlike 'The Good Wyfe Wold A Pylgremage', 'The Good Wife Taught her Daughter' does not allow for the possibility of an unmarried lifestyle.

[36] My interpretation here would seem to contradict recent research by Shannon McSheffrey, who has argued that in late medieval London, men's sexuality was a matter of some concern, within marriage as without: Shannon McSheffrey, 'Men and Masculinity in Late Medieval London Civic Culture: Governance, Patriarchy, and Reputation', in *Conflicted Identities and Multiple Masculinities: Men in the Medieval West*, ed. by Jacqueline Murray (New York: Garland, 1999), pp. 243–78. McSheffrey explicitly ties the concern with men's sexuality to a concern with good governance, an issue closely linked to maintaining hierarchies. McSheffrey also draws largely on ecclesiastical court records, a source not examined here; putting her research and mine together would no doubt refine the picture drawn primarily from letters.

[37] Isabel M. Davis, 'Love's Labours Found: The Vocabulary of Labour in the Construction of Male Marital and Sexual Identities in Late Fourteenth Century England', unpublished paper presented at the International Medieval Congress, University of Leeds, July 2001.

Incestuous Marriages: Formal Rules and Social Practice in the Southern Burgundian Netherlands

MONIQUE VLEESCHOUWERS-VAN MELKEBEEK

This essay sets out to compare the fifteenth-century evidence from the Southern Burgundian Netherlands and England on impediments to marriage, especially those related to cases of incest. This comparison reveals very different cultural attitudes to the matrimonial impediment of incest. In England, church court records reveal very few incest-related cases. This could indicate that the incest impediments have been interiorized. These few cases were mainly instance suits where one partner attempted to secure an annulment of his/her marriage on the grounds of an incest impediment. On the continent, and particularly in the Southern Burgundian Netherlands, over the period 1438–59, 150 marriage cases were incest related. When assessing the significance of these high figures, one has to take into account the criminal mode in which these cases were brought before the church courts of Cambrai and Brussels. By criminal mode, I refer to the court officer known as the 'promoter' (*promotor*) who acted as a criminal prosecutor. His role was to catch alleged incestuous couples at various stages of marital bonding. His main tools were rumour and denunciation. This defamatory cooperation from the community reveals a social practice profoundly different from the social practice in England where litigants themselves took their matrimonial incest cases to court. In the Southern Burgundian Netherlands, the couples supposedly engaging in an incestuous bond were brought before the court, standing accused of flouting incest rules. In eighty-six (57%) of the 150 cases, the promoter obtained the annulment of the incestuous bond. This suggests a low level of acceptance of the incest rules by a laity rebelling against a climate of church law enforcement.

Formal Rules

Classical canon law ruled that a validly contracted marriage was not dissoluble. This theoretical principle was applied throughout the Church, in English consistory courts as well as in continental ones. The Church equally recognized the existence of matrimonial impediments. These could be either diriment or prohibitive.

A matrimonial diriment impediment rendered a person incapable of validly contracting a marriage. Diriment impediments were the following: pre-contract, incest (in its fivefold forms of consanguinity, affinity by marriage, affinity by illicit intercourse, public honesty, and spiritual affinity), force and fear, crime, impotence, vow, nonage, defect or incapacity to consent, and unfulfilled condition. This class of impediments not only forbade a marriage but rendered it invalid. If a diriment impediment was proven, the marriage was annulled, the Church declaring that it had never existed. The matrimonial prohibitive impediments only forbade a marriage while allowing its validity.

In 1215, the Fourth Lateran Council reduced the prohibited degrees of the incest impediments from seven to four. This change in the rules concerning the forbidden degrees of kinship brought canon law into line with matrimonial practice. After 1215, as the circle of relationships within which marriage was barred contracted, fewer unions were open to attack on the grounds of incest.

Within the impediment of consanguinity, four degrees of kinship meant siblings and first, second, and third cousins. The remaining prohibitions still covered a broad range of possible marriages, as the method was to count down each line of descent from the common ancestor. Any two people descended from the same great-great-grandfather were barred from marrying each other.

Affinity was the tie between a man (or woman) and the blood kin of the person with whom he (or she) had become 'one flesh', either within marriage (affinity by marriage, or *affinitas per matrimonium*) or by any sexual intercourse (affinity by illicit intercourse, or *affinitas ex copula illicita*). If a man had once had sexual relations with a girl, he could not marry her sister; she could not marry his brother. They were barred by the first degree of affinity, as were the first (second degree of affinity), the second (third degree of affinity), and the third (fourth degree of affinity) cousins of any woman/man with whom he/she had had a carnal relationship. Thus, the matrimonial impediment of affinity by illicit intercourse invalidated the marriage of a man or a woman who could be proven to have had prior sexual relations with the other's blood kin up to the fourth canonical degree.

Other forms of the incest-related matrimonial impediment were 'public honesty' and 'spiritual' ties. The impediment of public honesty barred a marriage between the blood relations of a man and woman who had exchanged *verba de futuro* or words of promise to marry, but had not ultimately married. Here, too, the limit was the fourth degree. The 'spiritual' ties were contracted with the immediate kin of a person's sponsors in baptism or confirmation. This impediment legislated against a man marrying the widowed mother of two children for whom he had acted as godfather.

Neither could a widower marry the mother of a girl who had been the godchild of his deceased wife.

The matrimonial diriment impediment of incest (in its fivefold form) has received much attention. Historians such as Maitland succeeded in popularizing the view that all medieval marriages were dissoluble because of the prevailing extensive notion of incest, with its complicated, multiple, and artificial rules.[1] Maitland suggested that virtually any couple could get an annulment by showing some hitherto unsuspected relationship or kinship between them. A little genealogical research was capable of producing an impediment to most medieval marriages. The intricate rules on ties by blood, marriage, sexual intercourse, and 'spiritual' relationships, according to Maitland, caused incalculable harm. Maitland's view was influential enough to have a Church of England report of 1972 on 'Marriage, Divorce and the Church' state as established fact that, in medieval times, anyone who needed or wished to dissolve a marriage could probably discover a ground for its annulment.[2]

Social Practice in England

From 1971 onwards, historians studying the English consistory court registers have concluded that Maitland had a point in theory, but that he failed to study court practice. Michael Sheehan opened the rebuttal of Maitland's view on the disastrous effects of the matrimonial incest impediments on medieval marriages.[3] Having studied the Ely consistory court register of March 1374–March 1382, Sheehan stated: 'The Ely evidence leads to a different conclusion. [. . .] It becomes evident that marriages were not especially threatened by impediments of consanguinity and affinity. Revelation of a previous marriage [= pre-contract] was the greater danger.' Ely court records show 122 marriage cases, of which 30.33% raised the issue of the diriment matrimonial impediment of pre-contract and 11.48% the issue of the diriment impediment of incest (Table 1).[4]

---

[1] F. Pollock and W. Maitland, *The History of English Law before the Time of Edward I*, 2nd edn, 2 vols (Cambridge: Cambridge University Press, 1898; reissued 1968), II, 385–87, 393 n. 5.

[2] R. H. Helmholz, *Marriage Litigation in Medieval England* (Cambridge: Cambridge University Press, 1974), p. 75, n. 4, quotes several authors reiterating Maitland's conclusions.

[3] Michael M. Sheehan, 'The Formation and Stability of Marriage in Fourteenth-Century England: Evidence of an Ely Register', *Mediaeval Studies*, 33 (1971), 228–63: 'It is something of a commonplace that the conscientious statement or the manipulation of the impediment of consanguinity and affinity were the main threats to the stability of the bond in the Middle Ages' (p. 262) (reprinted in *Michael M. Sheehan, CSB. Marriage, Family, and Law in Medieval Europe: Collected Studies*, ed. by James K. Farge (Cardiff: University of Wales Press, 1996), pp. 38–76 (p. 74)).

[4] Sheehan, 'The Formation and Stability', p. 262. In 1974 Sheehan, 'Marriage and Family in English Conciliar and Synodal Legislation', in *Essays in Honour of Anton Charles Pegis*,

In 1974, Richard Helmholz, quoting Maitland's strong views, argued that 'It is the impediment arising from blood, marriage and "spiritual" ties which has provoked the greatest criticism of medieval marriage law. [. . .] It is all but irresistible to conclude that divorces were often procured under the system of kinship disqualification. The church court records, however, do not support that conclusion. The hard fact is that there were few divorces on these grounds [. . .]. Whatever may be thought, however, historians do wrong to speak of the ease and the frequency of divorce for consanguinity and affinity in medieval England. It is not so.'[5] Helmholz studied marriage cases heard in the fourteenth-century Canterbury, Ely, and York consistory courts, and also those in fifteenth-century Bath and Wells, Canterbury, Hereford, Lichfield, Lincoln, Norwich, Rochester, and York consistory courts. The total number of divorce cases was quite small, and within those, the cases brought on the matrimonial diriment impediment of pre-contract outnumbered the cases heard on any of the matrimonial incest impediments. The diriment impediment of pre-contract, that is, a pre-existing contract of marriage, meant that a person was obliged by the bond of a previous (valid) marriage. This person was bound by a *ligamen*, a former marriage bond to another partner, being married to that other partner, and could not therefore validly enter a new marriage with a new partner.

In 1993, Charles Donahue Jr. presented his findings for the fourteenth- and fifteenth-century court of York.[6] Studying eighty-eight marriage cases dating from the fourteenth century, and 125 from the fifteenth century, he found that in divorce cases, affinity was only invoked in three cases in the fourteenth century, consanguinity in two cases in the fifteenth century. The issue of pre-contract was more frequently (44.74%) raised in the fourteenth century than any other type of issue, for example, the issue of consanguinity or affinity (10.53%) (Table 1). In fifteenth-century York cause papers, Donahue found pre-contract given as grounds for annulment in 50.50% of the cases, incest in 4.95% (Table 1). In 1996, Donahue continued his study of the medieval canon law on incest, drawing on Canterbury material of the 1290s.[7]

---

ed. by Reginald O'Donnell (Toronto: Pontifical Institute of Mediaeval Studies, 1974), pp. 205–14 elaborated: 'In spite of a hoary tradition in English historiography that the rules in question (consanguinity, affinity and spiritual relationship) provided a convenient bolt-hole for those who sought divorce, the question has not been studied with care, either in itself or in its effect on the kindred' (pp. 211–12).

[5] Helmholz, *Marriage Litigation*, pp. 75, 77, 79, 87.

[6] Charles Donahue Jr., 'Female Plaintiffs in Marriage Cases in the Court of York in the Later Middle Ages: What Can We Learn from the Numbers?', in *Wife and Widow in Medieval England*, ed. by Sue Sheridan Walker (Ann Arbor: The University of Michigan Press, 1993), pp. 183–213, esp. pp. 186–90.

[7] Charles Donahue Jr., 'The Monastic Judge: Social Practice, Formal Rule, and the Medieval Canon Law of Incest', in *De Iure Canonico Medii Aevi: Festschrift für Rudolf Weigand*, ed. by Peter Landau and Martin Petzolt, Studia Gratiana, 27 (Rome: Libreria Ateneo Salesiano, 1996), pp. 49–69, esp. pp. 51–52.

TABLE 1. Pre-contract and incest impediments within the marriage business of some medieval consistory courts

Courts	**Years**	**Total of cases**	**Marriage business**	**% in total of cases**	**Pre-contract**	**% in total of marriage business**	**Incest**	**% in total of marriage business**
Augsburg	1350	335	228	68.06	7	3.07	10	4.39
Ely	1374–82	519	122	23.51	37	30.33	14	11.48
York	14th century	257	76	29.57	34	44.74	8	10.53
York	15th century	314	101	32.17	51	50.50	5	4.95
Cambrai	1438–53	1384	902	65.17	66	7.32	58	6.43
Brussels	1448–59	1279	918	71.77	191	20.81	92	10.02
Regensburg	1490	?	378	?	0	0	2	0.53

Arguing from the numbers and types of surviving records from ecclesiastical courts, he concluded that incest cases did not comprise a large portion of the marriage business of the medieval church courts.[8] Studying the depositions before the consistory court of London (1467–76) and the commissary court of London (1489–97), Shannon McSheffrey found no cases brought on the grounds of the matrimonial incest impediments in the hundreds of cases recorded.[9] In other words, from the thirteenth through the fifteenth centuries these courts heard relatively few cases involving incest.

From the records of marriage litigation in English church courts, a picture emerges of a laity conforming rather closely to ecclesiastical marriage law. Certainly, this seems to have been true for the law on the matrimonial incest impediments. Cases in which those problems were at issue were quite uncommon. The grounds of consanguinity, affinity (affinity by marriage and affinity by illicit intercourse), spiritual affinity, and public honesty rarely appeared in practice and affected only insignificant numbers of cases.

In order to account for this relative absence of marriage cases raising kinship disqualification in English church courts, Helmholz attempted to assess the attitudes and habits of English medieval people.[10] His findings were threefold. First, common people were reluctant to marry within prohibited degrees, suggesting that the matrimonial incest impediments were genuinely interiorized and accepted. People married outside their own communities so that finding a marriage partner engendered a certain population mobility. Secondly, litigants were aware that the standards of proof were very high. As no sentences of divorce were to be based on mere rumour, reliable and unimpeachable witnesses with first-hand knowledge had to be produced. The burden of proof lay with the party claiming the incest-related impediment. Often witnesses were uncertain of what degree of consanguinity or affinity existed. Thirdly, Helmholz argued, against Esmein, that papal dispensations were probably not available to ordinary people.[11] There is, however, no doubt that the nobility and upper gentry secured them in order to marry their kin. In those circles, genealogical records were more readily at hand. Possibly, the upper classes showed a certain degree of carelessness about the matrimonial incest impediments and married *sub spe dispensationis*, that is, before actually having secured the papal dispensation.

Helmholz repeatedly stressed the fact that divorce on the grounds of incest impediments was mainly sought by the partners themselves in instance suits. 'Ex officio actions' — that is, criminal prosecutions by the church court — occasionally did occur. But, as Donahue was the first to point out, 'criminal prosecution' in English church

[8] Donahue, 'The Monastic Judge', p. 55.

[9] Shannon McSheffrey, *Love and Marriage in Late Medieval London* (Kalamazoo: Medieval Institute Publications, 1995), pp. 3 and 6–7.

[10] Helmholz, *Marriage Litigation*, pp. 79–87.

[11] Helmholz, *Marriage Litigation*, p. 85; Helmholz only found seven cases.

courts was quite different from 'criminal prosecution' in French church courts.[12] Within the latter, the promoter operated as a criminal prosecutor, bringing criminal cases before the court. His role in continental church courts was exclusively to ferret out offenders, working to a large extent on rumour (*fama publica*) or on denunciation. There was no such official in English church courts. Here, it was the judge himself who occasionally launched criminal ex officio prosecutions, but it is clear that the civil mode in marriage cases clearly dominated the criminal mode.[13] The English church courts left much more initiative to the litigants: theirs was a dispute resolution mechanism.[14] The French church courts, including those of Cambrai and Brussels, operated considerably more within the context of law enforcement.

Social Practice in the Southern Burgundian Netherlands

As so little data from corresponding research on the continent is available, I include in Table 1 the numbers provided by Rudolf Weigand for the Augsburg and Regensburg courts.[15] However, I will not insist on his percentages for pre-contract and incest for the Augsburg court of the year 1350 nor for the Regensburg court of the year 1490 (Table 1), nor will his figures be drawn into my comparison between English consistory courts and those of Cambrai and Brussels in the Southern Burgundian Netherlands.[16] In order to enable scholars to make meaningful comparisons

[12] Charles Donahue Jr., Review of Anne Lefebvre-Teillard, *Les officialités à la veille du Concile de Trente* (Paris, 1973), *Michigan Law Review*, 74 (1976), 644–53.

[13] Donahue, 'The Monastic Judge', pp. 66–69, presents a rare exception in the Canterbury court of the 1290s: out of the eighteen Richard de Clyve's incest cases, twelve were criminal ex officio prosecutions.

[14] Charles Donahue Jr., 'The Canon Law on the Formation of Marriage and Social Practice in the Later Middle Ages', *Journal of Family History*, 8 (1983), 143–58 (p. 156).

[15] R. Weigand, 'Die Rechtsprechung des Regensburger Gerichts in Ehesachen unter besonderer Berücksichtigung der bedingten Eheschliessung nach Gerichtsbüchern aus dem Ende des 15. Jahrhunderts', *Archiv für katholisches Kirchenrecht*, 137 (1968), 403–63, esp. pp. 406–13 (reprinted in R. Weigand, *Liebe und Ehe im Mittelalter* (Goldbach: Keip Verlag, 1993), pp. 245–305); idem, 'Zur mittelalterlichen kirchlichen Ehegerichtsbarkeit: Rechtsvergleichende Untersuchung', *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Kanonistische Abteilung*, 67 (1981), 213–47, esp. pp. 230–41 (reprinted in Weigand, *Liebe und Ehe*, pp. 307–41).

[16] Within its marriage business of 228 cases, the court register of Augsburg for the year 1350 seemingly deals with only seven pre-contract cases, while incest cases prevail (ten cases) (Weigand, 'Zur mittelalterlichen', p. 230). The ten incest cases are as follows: four on the ground of consanguinity, four on the ground of affinity (by illicit intercourse as well as marriage), and two on the ground of spiritual affinity (Weigand, 'Zur mittelalterlichen', p. 232 and n. 101, p. 234). Within its marriage business of 378 cases, the court register of

between numbers of cases and percentages in English courts and those in continental consistory courts, common definitions of categories should be agreed on. Otherwise, like will never be compared to like. In this context, it should be noted that Weigand follows a restricted definition of *ligamen* which makes his pre-contract data unsuitable for comparison.[17]

The surviving records from the consistory courts of Cambrai and Brussels, of equal significance within the diocese of Cambrai (the archbishopric of Reims), consist of twenty books of judgements from the mid-fifteenth century: Cambrai 1438–53 and Brussels 1448–59.[18] Unfortunately no cause papers or other records of either consistory court have survived.[19] The Cambrai judgements total 1455, covering 1384 cases; the Brussels judgements total 1590, covering 1279 cases (Table 1). Of the 1384 Cambrai and the 1279 Brussels cases, respectively 65.17% (902 cases) and 71.77% (918 cases) were concerned with marriage (Tables 1 and 2).

A common feature in English consistory courts, shared by those of Cambrai and Brussels, was that, within the marriage impediments, pre-contract was more frequently raised than any incest impediment. In Cambrai, pre-contract figured in 7.32% of marriage cases and incest came second with 6.43%. In Brussels, pre-contract was raised in twice as many cases as incest was: 20.81% of pre-contract versus 10.02% of incest (Tables 1 and 2).

Regensburg for the year 1490 deals with no pre-contract cases within the restricted definition of what constitutes *ligamen*, according to Weigand. As to the incest cases, two are raised on the ground of consanguinity, none on the grounds of affinity (licit or illicit), spiritual affinity, or public honesty (Weigand, 'Zur mittelalterlichen', p. 230, p. 232, nn. 102–03, p. 234; idem, 'Die Rechtsprechung', p. 409 and n. 40).

[17] Multi-party suits in which one party unsuccessfully claims to be married to a deserting partner, himself or herself engaged in a new bond (the 'self-divorce' scenario), are not included among Weigand's pre-contract data (Weigand, 'Zur mittelalterlichen', pp. 230–31).

[18] *Registres de sentences de l'officialité de Cambrai (1438–1453)*, ed. by Cyriel Vleeschouwers and Monique Van Melkebeek, 2 vols, Recueil de l'ancienne jurisprudence de la Belgique, 7th series (Brussels: Commission royale pour la publication des anciennes lois et ordonnances de Belgique, 1998); *Liber Sentenciarum van de officialiteit van Brussel (1448–1459)*, ed. by Cyriel Vleeschouwers and Monique Van Melkebeek, 2 vols, Recueil de l'ancienne jurisprudence de la Belgique, 7th series (Brussels: Commission royale pour la publication des anciennes lois et ordonnances de Belgique, 1982–83).

[19] Monique Vleeschouwers-Van Melkebeek, 'Self-Divorce in Fifteenth-Century Flanders: The Consistory Court Accounts of the Diocese of Tournai', *The Legal History Review*, 68 (2000), 83–98, esp. pp. 83–84, discusses for the late Middle Ages the available records of the officialities of Cambrai and Brussels within the diocese of Cambrai, and of the officiality of Tournai within the neighbouring diocese of Tournai. These three ecclesiastical courts cover a large part of the Southern Burgundian Netherlands. The Tournai consistory court accounts are published: *Compotus sigilliferi curie Tornacensis: Rekeningen van de officialiteit van Doornik (1429–1481)*, ed. by Monique Vleeschouwers-Van Melkebeek, 3 vols (Brussels: Commission royale d'Histoire, 1995).

TABLE 2. Pre-contract, incest, and other impediments within the marriage business of the consistory courts of Cambrai and Brussels (diocese of Cambrai)

CAMBRAI

Year	Total cases	Marriage business cases	% in total cases	Total impedi-ments	% in marriage business	Pre-contract	% in marriage business	Incest	% in marriage business	Other impedi-ments	% in marriage business
1438–39	247	143	57.89	25	17.48	10	6.99	13	9.09	2	1.4
1439	22	16	72.73	4	25	2	12.5	1	6.25	1	6.25
1442–43	204	137	67.16	27	19.71	13	9.49	12	8.76	2	1.46
1444–45	230	136	59.13	20	14.71	9	6.62	10	7.35	1	0.74
1445–46	202	130	64.36	20	15.38	8	6.15	11	8.46	1	0.77
1446–47	204	147	72.06	13	8.84	11	7.48	1	0.68	1	0.68
1449–50	146	95	65.07	13	13.68	6	6.32	5	5.26	2	2.11
1452–53	129	98	75.97	12	12.24	7	7.14	5	5.1	–	–
TOTALS	1384	902	65.17	134	14.86	66	7.32	58	6.43	10	1.11

BRUSSELS

Year	Total cases	Marriage business cases	% in total cases	Total impedi-ments	% in marriage business	Pre-contract	% in marriage business	Incest	% in marriage business	Other impedi-ments	% in marriage business
1448–49	63	53	84.13	21	39.62	12	22.64	7	13.21	2	3.77
1449–50	102	79	77.45	32	40.51	21	26.58	7	8.86	4	5.06
1450–51	96	75	78.13	27	36	16	21.33	9	12	2	2.67
1451–52	88	70	79.55	22	31.43	11	15.71	8	11.43	3	4.29
1452–53	95	65	68.42	19	29.23	16	24.62	2	3.08	1	1.54
1453–54	101	84	83.17	27	32.14	16	19.05	7	8.33	4	4.76
1454–55	133	100	75.19	35	35	19	19	12	12	4	4
1455–56	130	86	66.15	33	38.37	18	20.93	8	9.30	7	8.14
1456–57	146	103	70.55	32	31.07	17	16.50	11	10.68	4	3.88
1457–58	121	74	61.16	22	29.73	13	17.57	7	9.46	2	2.70
1458–59	127	80	62.99	32	40	15	18.75	12	15	5	6.25
1459	77	49	63.64	21	42.86	17	34.69	2	4.08	2	4.08
TOTALS	1279	918	71.77	323	35.19	191	20.81	92	10.02	40	4.36

In the Cambrai court, 14.86% of the marriage cases were impediment-related. In the Brussels court, this amounted to 35.19% (Table 2). Within the marriage impediments, pre-contract still came first with 49.26% (Cambrai) and 59.13% (Brussels), versus incest with 43.28% (Cambrai) and 28.48% (Brussels) (Table 3). The other impediments only reached 7.46% (Cambrai), and 12.39% (Brussels) of the total of impediments raised. In both consistory courts of the diocese of Cambrai, the bulk of marriage impediments clearly lay within the categories of pre-contract and incest.[20] Helmholz has rightly identified the process of self-divorce underlying most of the pre-contract cases. The process of self-divorce was made possible by informal or clandestine marriages, which the Church continued to consider to be valid, though illegal (on the continent till the decree of *Tametsi* of 1563; in England until the Lord Hardwicke Act of 1753).[21]

In the Southern Burgundian Netherlands, over the period 1438–59, 457 marriage cases dealt with marriage impediments (Cambrai 134, Brussels 323). Of these, 150 were incest-related (Cambrai 43.28% or fifty-eight cases; Brussels 28.48% or ninety-two cases) (Table 3).

Among the incest impediments, the impediment of affinity by illicit intercourse ranked first with 50%, in Cambrai as well as in Brussels (Table 4). Consanguinity came second with 31.03% in Cambrai and 33.70% in Brussels. The other three incest impediments (affinity *per matrimonium,* or affinity by marriage, spiritual affinity, and public honesty) were less frequent, with percentages ranging from 1.72 to 10.35 (Table 4).

The courts of Cambrai and Brussels heard seventy-five cases on the ground of affinity by illicit intercourse (Cambrai, twenty-nine; Brussels, forty-six) (Table 4).[22]

---

[20] In Cambrai, pre-contract and incest impediments, taken together, number 124 or 92.54% of the total of impediments. In Brussels, the same impediments number 283 or 87.62% (Table 3).

[21] For details on the mechanism of self-divorce, see Monique Vleeschouwers-Van Melkebeek, 'Liés en conscience: L'Autodivorce aux Pays-Bas méridionaux du 15e siècle', in *Recueil Canonique d'Arras: XI^e Journées d'Etudes Canoniques Tournai-Arras* (Arras: Centre Canonique d'Arras, 1999), pp. 43–59; eadem, '"Oui, je le veux": Paroles de mariage prononcées en secret ou en public', in *Secret et Justice: Le Secret entre éthique et technique?*, ed. by Jean-Pierre Royer and Bernard Durand (Lille: Publications de l'Espace Juridique, 2000), pp. 165–76; eadem, 'Self-Divorce'; eadem, 'Classical Canon Law on Marriage: The Making and Breaking of Households', in *The Household in Late Medieval Cities: Italy and Northwestern Europe Compared*, ed. by Myriam Carlier and Tim Soens (Leuven: Garant, 2001), pp. 15–23; Michiel Decaluwe, 'De zelfscheiding in de Zuidelijke Nederlanden in de vijftiende eeuw', *Pro Memorie: Bijdragen tot de rechtsgeschiedenis der Nederlanden*, 3 (2001), 32–48.

[22] The impediment of affinity by illicit intercourse is raised in twenty-nine cases in Cambrai: C56, C75, C101, C120, C243, C291, C299, C321, C326, C330, C347 + 348, C360 + 361, C364, C411, C499, C508, C576 + 577, C578, C634, C660, C734, C770, C840, C853, C909, C922, C1175, C1220, C1330; and in forty-six cases in Brussels: B11 + 12, B51, B110, B123, B148, B200, B226, B251, B268, B278, B279, B299 + 310, B311, B322, B359, B569,

On the ground of consanguinity, forty-nine cases were heard (Cambrai, eighteen; Brussels, thirty-one).[23] The impediments of spiritual affinity (Cambrai, six; Brussels, three) and public honesty (Cambrai, one; Brussels, eight) each occurred in nine cases. Affinity *per matrimonium* (Cambrai, four; Brussels, four) was at issue in eight cases (Table 4).[24]

The promoter caught out alleged incestuous couples at different stages of marital bonding, that is, at the stage of betrothal as well as at the stage of a recently contracted marriage. In 56% (eighty-four cases) of the incest impediment cases, the bond was one of betrothal, while in 44% (sixty-six cases) the bond was a marital one. In both types, all five impediments occurred. Within the promoter's inquiry into a betrothal on the grounds of incest impediments, they were distributed as follows (in descending order): consanguinity (41.67% or thirty-five cases), affinity by illicit intercourse (38.10% or thirty-two cases), public honesty (8.33% or seven cases), affinity by marriage and spiritual affinity (each 5.95% or each five cases). Within the promoter's inquiry into a recently established marriage, the distribution was (again in descending order): affinity by illicit intercourse (65.15% or forty-three cases), consanguinity (21.21% or fourteen cases), spiritual affinity (6.06% or four cases), affinity by marriage (4.55% or three cases), and public honesty (3.03% or two cases).

The outcome of the 150 incest impediment cases was that in 42.67% (sixty-four cases) the court upheld the contested bond, either of betrothal or of marriage, and thus ruled against either the existence of or the compelling force of the alleged impediment. The promoter was able to provide proof of the incest impediment in 57.33% (eighty-six cases) and thereby obtained an annulment from the judge of the incestuous bond.[25]

B582, B594, B595, B599, B695, B738, B740 + 745 + 748 + 762, B749, B835, B915, B917, B953, B1029, B1039, B1072, B1114, B1126, B1150, B1155, B1198, B1253, B1332, B1345, B1346, B1352, B1364, B1367, B1445, B1513, B1538.

[23] The impediment of consanguinity is raised in eighteen cases in Cambrai: C76, C113, C116, C126, C182, C346, C597, C633, C728, C837, C850, C851, C877, C1044, C1252, C1257, C1388, C1430; and in thirty-one cases in Brussels: B22, B23, B29 + 1454, B58, B95, B114, B135, B154, B198, B263, B270, B290, B343, B345, B632, B654, B680, B718, B722, B977, B981, B1079, B1120, B1157, B1183, B1199, B1212, B1288, B1383, B1455, B1480.

[24] The impediment of affinity by marriage is raised in four cases in Cambrai: C150, C403, C630, C754; and also in four cases in Brussels: B656, B709, B917, B1336. The impediment of spiritual affinity is raised in six cases in Cambrai: C59, C272, C340, C1223, C1347, C1443; and in three cases in Brussels: B613, B810, B1115. The impediment of public honesty is raised in one case in Cambrai: C6; and in eight cases in Brussels: B46 + 59, B339, B401, B452, B741, B796, B1239 + 1253, B1346.

[25] This overall success rate of 57.33% in ferreting out incestuous bonds was mirrored in the success rates of the promoter in proving incestuous betrothals (57.14%, or forty-eight out of the eighty-four betrothals), as well as incestuous marital bonds (57.58%, or thirty-eight out of the sixty-six marriages).

TABLE 3. Marriage impediments in the consistory courts of Cambrai and Brussels (diocese of Cambrai)

CAMBRAI

Year	Total impediments	Pre-contract	% in total impediments	Incest	% in total impediments	Other impediments	% in total impediments
1438–39	25	10	40	13	52	2	8
1439	4	2	50	1	25	1	25
1442–43	27	13	48.15	12	44.44	2	7.41
1444–45	20	9	45	10	50	1	5
1445–46	20	8	40	11	55	1	5
1446–47	13	11	84.62	1	7.69	1	7.69
1449–50	13	6	46.15	5	38.46	2	15.39
1452–53	12	7	58.33	5	41.67	–	–
TOTALS	134	66	49.26	58	43.28	10	7.46

BRUSSELS

Year	Total impediments	Pre-contract	% in total impediments	Incest	% in total impediments	Other impediments	% in total impediments
1448–49	21	12	57.14	7	33.33	2	9.53
1449–50	32	21	65.63	7	21.87	4	12.5
1450–51	27	16	59.26	9	33.33	2	7.41
1451–52	22	11	50	8	36.36	3	13.64
1452–53	19	16	84.21	2	10.53	1	5.26
1453–54	27	16	59.26	7	25.93	4	14.81
1454–55	35	19	54.29	12	34.28	4	11.43
1455–56	33	18	54.55	8	24.24	7	21.21
1456–57	32	17	53.12	11	34.38	4	12.5
1457–58	22	13	59.09	7	31.82	2	9.09
1458–59	32	15	46.88	12	37.5	5	15.62
1459	21	17	80.95	2	9.52	2	9.52
TOTALS	323	191	59.13	92	28.48	40	12.39

TABLE 4. Occurrence of incest impediments within the consistory courts of Cambrai and Brussels (diocese of Cambrai)

CAMBRAI

Year	Total of incest impediments	Consanguinity	Affinity by illicit intercourse	Affinity *per matrimonium*	Spiritual affinity	Public honesty
1438–39	13	5	5	1	1	1
1439	1	–	–	–	1	–
1442–43	12	1	9	1	1	–
1444–45	10	3	6	1	–	–
1445–46	11	4	6	1	–	–
1446–47	1	1	–	–	–	–
1449–50	5	2	2	–	1	–
1452–53	5	2	1	–	2	–
TOTALS	58	18 (31.03%)	29 (50%)	4 (6.90%)	6 (10.35%)	1 (1.72%)

BRUSSELS

Year	Total of incest impediments	Consanguinity	Affinity by illicit intercourse	Affinity *per matrimonium*	Spiritual affinity	Public honesty
1448–49	7	4	2	–	–	1
1449–50	7	4	3	–	–	–
1450–51	9	3	6	–	–	–
1451–52	8	3	4	–	–	1
1452–53	2	–	–	–	–	2
1453–54	7	1	5	–	1	–
1454–55	12	4	4	2	–	2
1455–56	8	2	4	1	1	–
1456–57	11	3	7	–	1	–
1457–58	7	4	2	–	–	1
1458–59	12	3	7	1	–	1
1459	2	–	2	–	–	–
TOTALS	92	31 (33.70%)	46 (50%)	4 (4.35%)	3 (3.26%)	8 (8.69%)

As classical canon law allowed for the validity of clandestine marital bonds, the question of how many suspected incestuous bonds of betrothal or marriage were formal or informal has to be raised.[26] Out of the 150 incest-related cases, 60.67% (ninety-one cases) concerned formal bonds, and 39.33% (fifty-nine cases) touched on informal bonds. The ninety-one cases of formal bonds comprised seventy betrothals and twenty-one marriages, whilst the fifty-nine informal bonds consisted of fourteen betrothals and forty-five marriages.

The ensuing question has to be whether the success rate of the promoter in obtaining annulments of suspected incestuous bonds related to the formal or informal character of the said bonds, and if so, to what extent? Of the ninety-one formal and fifty-nine informal bonds pursued, the promoter proved his case for annulment in 48.35% (forty-four cases) of formal bonds, and in 71.19% (forty-two cases) of informal bonds. The court ruled against the promoter, maintaining the bond, in 51.65% (forty-seven cases) where formal bonds were at issue, and in 28.81% (seventeen cases) with informal bonds. This reveals that the promoter won nearly half of the cases regarding formal bonds, and was fully justified in pursuing an incestuous bond in more than 70% of the cases touching informal bonds.

Within the fourteen informal betrothal cases, the success rate of the promoter was 100% for four out of the five categories of incest impediments.[27] The one informal case of spiritual affinity went against the promoter, thus leaving an overall success rate of 92.86% for the promoter for thirteen out of the fourteen informal betrothals. Within the forty-five informal marriage bonds, the promoter succeeded in 64.44% in proving the incestuous character.[28] Within the seventy formal betrothal cases, the promoter proved his case in 50%.[29] Of the twenty-one formal marriages, 42.86% were declared void.[30]

In summary, a study of the figures reveals at least four significant points. First, the prosecution by the promoter and his criminal inquiry proved to be unjustified in

[26] The terms *formal* marriage and *informal* marriage are proposed by Donahue, 'Female Plaintiffs', p. 209, n. 16, in preference to the terms *public* marriage (celebrated according to the rules) and *clandestine* marriage.

[27] Consanguinity, seven out of seven (100%); affinity by illicit intercourse, three out of three (100%); affinity by marriage, one out of one (100%); public honesty, two out of two (100%).

[28] Consanguinity, five out of nine (55.55%); affinity by illicit intercourse, twenty out of twenty-nine (68.97%); affinity by marriage, one out of two (50%); spiritual affinity, one out of three (33.33%); public honesty, two out of two (100%).

[29] Consanguinity, eight out of twenty-eight (28.57%); affinity by illicit intercourse, nineteen out of twenty-nine (65.52%); affinity by marriage, two out of four (50%); spiritual affinity, three out of four (75%); public honesty, three out of five (60%).

[30] Consanguinity, one out of five (20%); affinity by illicit intercourse, seven out of fourteen (50%); affinity by marriage, zero out of one (0%); spiritual affinity, one out of one (100%); public honesty, zero out of zero (0%).

50% of incest-related formal betrothals and in 57.14% of incest-related formal marriages, thus causing unnecessary major upheaval in the families and parish communities concerned. Secondly, couples whose bonds harboured real incest problems nevertheless did choose to enter into these bonds in the formal way.[31] In particular within the impediment of affinity by illicit intercourse, one or both partners conveniently forgot or claimed to have overlooked the prior sexual contacts (with the other's blood kin) that constituted a diriment impediment. These couples did not bother to declare an affinity and gambled on the fact that 'going formal' would not be opposed within their communities. In doing so they risked denunciation and exposure. Thirdly, in informal bonds, exposure to scrutiny by the parish community during the marriage banns period was inherently avoided or reduced to a minimum. As could be expected, in pursuing those informal bonds, the promoter was most successful in proving their incestuous character.[32] Fourthly, by launching prosecutions in a proactive way, even at the risk of being unable to prove 40% of those incest cases, the promoter gave a very strong signal to the lay communities that alleged trespassers of incest rules would be brought to court.

The promoter acted on rumour or on denunciation. He was greatly helped by the synodal statutes of Cambrai which decreed that lay people who concealed, for whatever reason, the existence of an impediment would be excommunicated. Falsely raising impediments attracted the same punishment.[33] The consistory courts of Cambrai and Brussels imposed on the promoter the utmost secrecy regarding the names and identities of informers. On no account were these names to be divulged to proctors or advocates of the accused couple.[34]

As stated above, the classical rules on incest impediments were elaborate, and in 1215 the Fourth Lateran Council reduced the forbidden degrees of kinship from

---

[31] 50% of the formal betrothal incest cases, and 42.86% of the formal marriage incest cases.

[32] Informal betrothals: 92.86%; informal marriages: 64.44%.

[33] 'Item excommunicamus qui contra matrimonium falsa impedimenta proposuerint vel ea celaverint scienter, amore, odio, precepto vel favore vel alia quacumque de causa. Et precipimus eos excommunicatos propter hoc frequenter a presbiteris nunciari' (*Statuta antiquissima Dioecesis Cameracensis*, ed. by J. Reusens (Leuven: Analectes pour servir à l'histoire ecclésiastique de la Belgique, 1903), p. 17: synodal statute of 1462, issued by John VI of Burgundy, bishop of Cambrai).

[34] 'Teneat promotor librum et registrum excessuum ac nomina denunciatorum secretissime nec procuratoribus, advocatis aut partibus ea communicet neque articulos impositos aut imponendos, nisi de expresso mandato domini officialis' (Lille, Archives Départementales du Nord, 14 G 87, fol. 8^{v}: statutes of the consistory court of Tournai, 1582–86); 'Insuper promotores librum seu registrum excessuum ac nomina denuntiatorum sub secreto tenebunt, nec advocatis, procuratoribus, partibus aut aliis sine permissione officialis ea communicabunt, sub poena trium florenorum' (*L'ancienne procédure ecclésiastique dans le Nord de la France*, ed. by Éd. Fournier (Lille: Société d'Etudes de la Province de Cambrai, 1931), p. 41: statutes of the consistory courts of Cambrai, 1632).

seven to four, that is, siblings and first, second, and third cousins. One way of finding out how far the laity in the Southern Burgundian Netherlands was willing to trespass against the incest rules is to look into the degrees of kinship mentioned in the cases. The consistory courts of Cambrai and Brussels often mentioned these.[35] In cases of consanguineous unions, the closest degrees (siblings and first cousins) are never mentioned, suggesting that among close kin the impediment of consanguinity was accepted. When a bond was open to objection on grounds of consanguinity, the couple was said to be related in the third degree (or third and fourth degree) and fourth degree (or fourth and fifth degree).[36] Clearly the rules on affinity by illicit intercourse were quite poorly, if at all, interiorized by the laity. The Cambrai and Brussels data reveal that this incest rule was alleged to have been transgressed, not only in the third and fourth degrees but also in the first and second degrees, when the relationship was close (siblings and first cousins).[37] The impediments of affinity by marriage and of public honesty were equally broken, not only for the third and fourth degrees, but also up to the first degree.[38]

---

[35] In twenty-six out of the forty-nine consanguinity cases (53.06%), in sixty-six of the seventy-five cases of affinity by illicit intercourse (88%), in all of the seven cases of affinity by marriage (100%), and in six out of the nine cases of public honesty (66.67%).

[36] Consanguinity: Second cousins or third degree in three cases (C182, C346, C877; none in Brussels). Second and third cousins or third and fourth degree in two cases (B654, B977; none in Cambrai). Second and third cousins or third and fourth degree in two cases (B654, B977; none in Cambrai). Third cousins or fourth degree in seventeen (nineteen) cases (Cambrai four cases: C113, C597, C633, C1388; Brussels thirteen cases: B29 + 1454, B58, B263, B270, B290, B632, B718, B1079, B1120, B1183, B1199, B1212, B1288. After investigation the fourth degree, prosecuted by the promotor of Brussels, proves in two cases to exceed the fourth degree (B632, B1183)). Fourth and fifth degree in two cases (C728 and B1157).

[37] Affinity by illicit intercourse: Siblings or first degree in fourteen cases (Cambrai eight cases: C120, C330, C364, C411, C508, C576 + 577, C922, C1175; Brussels six cases: B11 + 12, B110, B268, B322, B1367, B1538). First cousins or second degree in twelve cases (Cambrai five cases: C291, C321, C326, C634, C660; Brussels seven cases: B51, B200, B569, B917, B1253, B1346, B1513). Second cousins or third degree in twenty-four cases (Cambrai ten cases: C56, C243, C299, C499, C734, C770, C840, C909, C1220, C1330; Brussels fourteen cases: B148, B226, B278, B279, B359, B582, B740 + 745 + 748 + 762, B953, B1029, B1039, B1198, B1352, B1364, B1445). Third cousins or fourth degree in fourteen cases (Cambrai four cases: C75, C347 + 348, C360 + 361, C853; Brussels ten cases: B123, B311, B594, B595, B599, B738, B835, B915, B1150, B1332). Beyond fourth degree in two cases: C578 and B1345.

[38] Affinity by marriage: Siblings or first degree: B709. Second cousins or third degree: C150, C403, C754. Third cousins or fourth degree: B917, B1336. Beyond fourth degree: C630. Public honesty: Siblings or first degree: B741. First cousins or second degree: B46 + 59, B401, B1346. Second cousins or third degree: C6. Third cousins or fourth degree: B452. In order to avoid further scandal in the community, the Council of Trent, at its twenty-fourth session (1563), limited the diriment force of the impediments of public honesty and of affinity

A consideration of the strong terms the judges of Cambrai and Brussels used when reprimanding the incestuous sinners shows that the defence of ignorance did not much impress them. At most, if a party was proven to be genuinely unaware of a kinship impediment, this ignorance played a part when the judge meted out punishment.

It will be clear from the percentages of incest cases I quoted earlier that the Cambrai and Brussels judges did care about the incest rules and considered them to be relevant in cases where the marriage bond was involved. Most especially the Cambrai judges used strong language in their judgements, reproaching affected ignorance of the incest rules (*ignorantie affectator*, *ignorantie affectatrix*, *ignorantie affectatores*). When incestuous marriages (*incestae nuptiae*) were involved, judge Gregory Nicolai of the court of Cambrai ordered his clerk to qualify the culprits as either *affectatores* of the said *incestae* or *nephariae nuptiae*, or *perpetrator*, or *actor*, or *attemptatrix*. However, this strong language did not necessarily mean that the marriage bond of the couple thus 'labelled' was declared void.

The requirements of canon law in the matter of proof of consanguinity or affinity were just as stringent in the diocese of Cambrai as they were in the English dioceses. Two reliable witnesses with first-hand knowledge were needed. Some divorce cases remained pending, awaiting further inquiry. This further inquiry entailed looking for reliable witnesses, especially witnesses of former sexual contacts. Mere rumour or denunciation could not form the basis for any judgement of divorce. The judges of Cambrai and Brussels were as aware as their colleagues of Canterbury, Ely, or York of the dangers of collusion in matrimonial matters. Nicolai, the Cambrai official of the time, who had studied Roman law in Bologna and canon law in Paris, even quoted in one of his marriage judgements the *Decretum* of Gratian: 'juxta patrum decreta sanctorum, judicantem oportet cuncta rimari et ordinem rerum plena inquisitione discutere' ('he who judges has to investigate thoroughly all of the presented facts and reconstruct the sequence of events').[39] And, especially when it came to pronounce an annulment of a marriage on incest grounds, he justified further investigation by invoking the principle that, as a judge, he should be able to proceed with becoming circumspection 'in materia dissolutionis foederis, rite et cum ea — qua decet — maturitate'.[40]

---

by illicit intercourse. Up to 1563, the impediment of public honesty barred a marriage between a man and a blood relation (up to the fourth degree) of his former fiancée, or between a woman and a blood relation of her former fiancé. From 1563 onwards, this impediment was restricted to the first degree (siblings), and only when the former betrothal was a formal one. As to the impediment of affinity by illicit intercourse, the Council limited the diriment character to the first and second degree (*Conciliorum Oecumenicorum Decreta*, ed. by J. Alberigo and others (Bologna: Istituto per le Scienze Religiose, 1973), p. 757, c. 3 and c. 4).

[39] C 30.5.11. — C821 (13 November 1445); C829 (20 November 1445).

[40] C348 (6 October 1442); C361 (20 October 1442).

Conclusion

At first sight, the multitude of 150 marriage-related incest cases in the consistory courts of Cambrai and Brussels over two decades would indicate that, within the matrimonial context, incest was rampant in the Southern Burgundian Netherlands. Even after excluding the 43% (sixty-four cases) where the promoter was unable to provide proof of the incest impediment, there remains a solid 57% (eighty-six cases) where the judges of Cambrai and Brussels considered the incest impediment proven and consequently annulled the incestuous bond. The sheer number of eighty-six cases seems out of step with the numbers of English marriage-related incest cases: eighteen in the 1290s in Canterbury, fourteen in the 1370s in Ely, eight in fourteenth-century York, five in fifteenth-century York, none in the second half of fifteenth-century London.

As mentioned above, Maitland's remarks on the ease with which anyone in the Middle Ages could escape from an unwanted marriage by invoking one or another of the incest impediments have been brought into question. But Maitland assumed that the incest-related escape route lay open within the dispute resolution mechanism of the English church courts, within the civil mode of *instance* suits, launched by the litigants. He did not envisage the criminal mode of marriage litigation in northern France, where marriage cases were pursued by the promoter as part of an overpowering law-enforcement mechanism. Here**,** the law of the ecclesiastical forum leant quite heavily on the forum of the inner conscience. Through proactive prosecution by promoters, the church courts of Cambrai and Brussels effectively sought to enforce respect for the canon law standards on marriage and incest-related impediments. All of the 150 matrimonial incest cases in the Southern Burgundian Netherlands were brought by the promoter, that is, by the external forum of the court and in a criminal mode. These differences in procedure and in the ways in which the same canon law was enforced in England and in the church courts of Cambrai and Brussels resulted not only in different litigation patterns, in different church court institutions, but surely also reflected different societies. In England and in the Southern Burgundian Netherlands, church courts and the laity viewed one another in completely divergent lights. The authoritarian mode of operating in the church courts of Cambrai and Brussels stood in sharp contrast to the trusting, open, grown-up relationship between the church courts in England and the litigants who were looking by way of instance suits for a just solution to their matrimonial problems. Here, a community is revealed where to a large extent the matrimonial incest rules have been accepted and interiorized.

In the Southern Burgundian Netherlands, synodal statutes clearly stated that anyone concealing the existence of a matrimonial incest impediment would be excommunicated. This spurred the community on to denunciations and to engage in rumour-mongering which, in turn, led the promoter to chase couples allegedly breaking the incest rules. Hence the surprisingly high number of 150 cases; hence the even more surprising number of eighty-six cases of proven incestuous bonds

which had to be annulled. These couples never entered court as litigants in order to free themselves from a supposedly incestuous bond. Instead, they were brought before court, standing accused of serious offences against church law and synodal statutes. All of the cases were made possible by the force of rumour, by reputation, on which the promoter could, would, and was willing to act. Denunciation by third parties, whose anonymity was protected, was rife even if the promoter had to bring indisputable proof of his case.

From the eighty-six cases where the incestuous bond had to be annulled, one conclusion has to be drawn. In the Southern Burgundian Netherlands, quite a few couples when entering their marriage bond deliberately flouted the incest rules, thereby proving the weak degree of acceptance of the incest rules within their internal forum, within their inner conscience. This low level of acceptance of church rules can be related to a typical general climate of law enforcement, in its turn generating rebellion and resistance.

The different attitudes to canon law of English Catholics and continental Catholics are still apparent today. Analysing the reception by English Catholics of the encyclical *Humanae Vitae* (Pope Paul VI, 28 July 1968), Clifford Longley describes the 'delation system' and the Church's 'policy of taking anonymous denunciations seriously as a most keenly resented practice, being contrary to natural justice and the English sense of fair play'.[41] Although the 'post–Vatican II' period cannot be compared in a straightforward manner to the pre-Tridentine situation, much of what Longley describes as the attitude of English Catholics clearly stems from attitudes held over centuries. Commenting on Canon 1069 (*Before the celebration of a marriage, all the faithful are bound to reveal to the parish priest or the local Ordinary such impediments as they may know about*) of the 1983 Code, the Canon Law Society of Great Britain and Ireland found it necessary to state: 'The faithful should be disabused of the notion — not uncommon today — that by expressing their reservations about a particular proposed marriage, they would in some way or other be considered as "disloyal" or "interfering".'[42]

[41] Clifford Longley, *The Worlock Archive* (London: Geoffrey Chapman, 2000), p. 288.

[42] *The Canon Law Letter and Spirit: A Practical Guide to the Code of Canon Law* (London: The Canon Law Society Trust, 1995), p. 583 (2094).

Pictures and Poems of Courtly Love and Bourgeois Marriage: Some Notes on the So-called *Minnekästchen*[*]

JÜRGEN WURST

The *Minnekästchen*, like no other genre of medieval secular art, serve to demonstrate developments in social circumstances from the thirteenth to the fifteenth century. The chests, probably originating from a courtly context, were in the late Middle Ages adopted by the emerging middle class, with decorations consisting of old motifs and ideas which were modified, or completely new ones. However, the twilight of the Middle Ages, as has been know at the very least since Huizinga, was a period of extreme contrasts, making unequivocal cultural expressions difficult to find, if they can be found at all. At this point of my research, several emerging problems can only be touched upon with a number of questions remaining unanswered.

I

Questioned as to the nature of *Minne*, even Walther von der Vogelweide, probably the most famous, certainly the most profound, of all German minstrels, would not have been able to give a definite answer to himself and his public (the issue not being finally resolvable anyhow).[1] Had somebody asked him about the function,

[*] I am indebted to Rudi Goebel, the restorer of the Munich Minnekästchen for useful comments, to Sara Strack and Jen Harrison for translation assistance, and to Rainer Wecker for his expert manipulation of photographic data.

[1] Walther von der Vogelweide, *Leich, Lieder, Sangsprüche*, 14th edn of the 1st edn by Karl Lachmanns, ed. by Christopher Cormeau (Berlin: de Gruyter, 1996), song 44,1: *Saget mir ieman, waz ist minne?* (tell me anyone, what is minne?). Some years before Walther,

sense, and meaning of a *Minnekästchen*, this question would certainly have occasioned an uncomprehending shake of the head. Indeed, he could never have known an object of this name, since the term *Minnekästchen*, as one might have suspected already, is not of medieval origin, a fact that has presented a problem for scholarship. Small chests or boxes, in most cases wooden, featuring carved or painted figured scenes or ornaments, objects which, from the nineteenth century onwards, have been denoted with the term in question, in Middle High German were designated with terms such as *truhelin*, *sc(h)rin*, *kistlin*, *laden*, *lädlin*, or the like. The existence of such a term in connection with the word *Minne* (for example *minne-schrin*, *minne-kistlin*, and so on) has not been proven as yet. If contemporaries did not even know what the terms *Minne* or *Minnekästchen* might mean, how are we, several centuries later, supposed to define it? However, the word coined in the nineteenth century cannot be denied a certain justification, as it describes rather fittingly the meaning of these artefacts. In modern research, the term *Minnekästchen* denotes small containers made from various materials, their decoration — mostly depictions of couples talking, symbols, and animals, occasionally scenes of an erotic kind — indicating a function as love gifts.

The history of the *Minnekästchen* is intimately connected with the rediscovery of medieval literature in Germany at the end of the eighteenth century, but especially in the first half of the nineteenth. Interest in secular works of art increased at the same time as that in secular literature.[2] The term *Minnekästchen* thus arose in a time which had just begun to rediscover the Middle Ages for itself, mostly through the idealized view of romanticism.[3] As *Minne*, to summarize, is an erotic game without sexual fulfilment between a man and his adored lady, the term *Minnekästchen* implies that such objects played a part in this game.[4] This can be compared to *Minneschnüre* or *Minnestricke*, or the detachable sleeves of women's dresses, which, attested to in

Friedrich von Hausen in his song *Minnenot* also asks, *Waz mac daz sin daz diu werlt heizet minne?* (what is it that the world named *minne*?), in *Des Minnesangs Frühling*, ed. by Hugo Moser and Helmut Tervooren (Stuttgart: Hirzel, 1977), X,3.

[2] Large private collections of medieval art came into being even before the public ones, as, for example, the collection of the Fürst Kraft Ernst Ludwig von Oettingen-Wallerstein in the first decades of the nineteenth century. See Gustav Wedel, *Die Harburg und die Fürstliche Sammlung* (München: Schnell und Steiner, 1954), and Henning Bock, 'Fürstliche und öffentliche Kunstsammlungen im 18. und frühen 19. Jahrhundert in Deutschland', in *The Genesis of the Art Museum in the 18th Century*, ed. by Per Bjurström (Stockholm: Nationalmuseum, 1993), pp. 112–30, on the late-eighteenth-century concept of museums for National Art..

[3] The word, which does not occur in the *Deutsches Wörterbuch*, was coined by Friedrich Heinrich von der Hagens in his publications. In detail, see Dorothea Diemer and Peter Diemer, 'Minnesangs Schnitzer: Zur Verbreitung der sogenannten Minnekästchen', in *Festschrift Walter Haug und Burghart Wachinger*, Johannes Janota and others (Tübingen: Niemeyer, 1992), pp. 1021–60 (p. 1023, n. 7).

[4] Diemer and Diemer, 'Minnesangs Schnitzer', pp. 1022–23 and n. 9.

several instances by texts and/or depictions, were nailed by knights to their shields like amulets.[5] However, Diemer and Diemer maintain that such a function for *Minnekästchen* cannot be proven from the available sources.[6] Nevertheless, this is hardly surprising, as this possible role was assigned to the small chests only in recent times by the term used for their designation. Academic debate concerning the authenticity of the *Minnekästchen* is thus really based on a problem of terminology, since it is demonstrable that small boxes had an established position in the repertoire of medieval gifts, and the existence of boxes in the Middle Ages is undeniable. There are many indications for the existence of small boxes and their function in the didactic, lyrical, and epic literature of the time, as well as in book illustrations and paintings, in addition to the numerous preserved examples. These literary and artistic portrayals provide an idea of the purpose and employment of these chests (see section III below).

In the middle of the nineteenth century, a German wooden *Minnekästchen* was publicly presented for the first time. In his collection of German lyric poetry of the Middle Ages published in 1856,[7] the German scholar Friedrich von der Hagen included the Munich *Minnekästchen*, discovered in 1816, as this chest connected, in an unparalleled way, a text carved on the inside of the box with depictions of Minne (see below for more detailed discussion). The rise in popularity of the *Minnekästchen*, though, began in the second half of the nineteenth century. Large national collections, many of which were founded in the mid-nineteenth century, such as the Bayerisches Nationalmuseum in Munich,[8] the Schweizer Landesmuseum in Zurich, and the Kunstgewerbemuseen in Berlin, Vienna, and Cologne, with an interest in art history bought *Minnekästchen*, because they fitted well into their collection concepts. Their sudden popularity also spawned a lucrative market in copies and fakes. Finally in 1928, Heinrich Kohlhausen published a catalogue of all examples known to him, either materially or in photographic form only.[9] As he states himself, not all

---

[5] Daniel Hess, *Das Gothaer Liebespaar: Ein ungleiches Paar im Gewand höfischer Minne* (Frankfurt am Main: Fischer, 1996), pp. 11–16, for further examples and bibliography; Elke Brüggen, *Kleidung und Mode in der höfischen Epik des 12. und 13. Jahrhunderts* (Heidelberg: Winter, 1989), pp. 130–34.

[6] Diemer and Diemer, 'Minnesangs Schnitzer', p. 1025; at the same time they refer to future research in the field of German studies.

[7] Friedrich von der Hagen, *Bildersaal altdeutscher Dichter*, vol. v (Berlin: J. A. Stargardt, 1856), pp. 47–48, and Rudolf Göbel, 'Das Münchner Minnekästchen: Untersuchungen zur Echtheitsfrage', *Zeitschrift für Kunsttechnologie und Konservierung*, 9 (1995), 296–312 (pp. 306–07).

[8] Its large collection of pieces of small furniture was acquired mainly in the last three decades of the nineteenth century.

[9] Horst Appuhn, 'Die schönsten Minnekästchen aus Basel: Fälschungen aus der Zeit der Romantik', *Zeitschrift für Schweizerische Archäologie und Kunstgeschichte*, 41 (1984), 149–60 (p. 150).

of these pieces can be called *Minnekästchen* in the strict sense of the term.[10] Some of the examples in his catalogue might have been reliquaries, document containers, or letter cases, as their decoration does not provide definite proof of their function as love gifts. In the following years, as more chests were discovered, Kohlhausen published a number of further articles.[11] After the Second World War, interest in this genre more or less died out, until doubts concerning the authenticity of the Munich *Minnekästchen* (probably the most well-known piece), raised after the Staufer exhibition of 1977 in Stuttgart,[12] made the little objects a focus of scholarly interest again. Thus, in the years following this controversy, Horst Appuhn visited some of the German Museums as well as the Victoria and Albert Museum in London, where he, in cooperation with the curators, subjected the chests to detailed study and collected a large amount of information (unfortunately still unpublished). This proved several pieces to be forgeries or, at least, nineteenth-century reproductions.[13] In 1992, Munich art historians Dorothea and Peter Diemer entered the scene as his successors, and attempted to give the deathblow to the whole genre.[14] Basing their claims on the aforementioned Munich *Minnekästchen*, which they believe to be a forgery produced in the late eighteenth or early nineteenth century, they declared all *Minnekästchen* to be products of a false yearning for the Middle Ages popular in Romanticism, a statement which has been widely accepted among German art historians. Although the authors are doubtless right on several points, a number of the pieces are indeed forgeries, I do not believe this necessarily casts doubt upon the whole genre.

Nevertheless, questions concerning the genre's authenticity are of great importance to research into the Middle Ages. If all such chests are products of recent times, this withdraws from research a group of objects both numerous and considerably informative (for example, with regard to the structure of relations between men and women, the rites and customs connected with engagement and marriage, male and female interpretations of gender roles and expectations in relationships); this is especially serious when considering the otherwise scanty tradition of objects from medieval secular contexts.

---

[10] Heinrich Kohlhausen, *Minnekästchen im Mittelalter* (Leipzig: Verlag für Kunstwissenschaft, 1928), pp. 11–13, while it is doubtful what he himself would have called *Minnekästchen*.

[11] Heinrich Kohlhausen, 'Rheinische Minnekästchen des Mittelalters', *Jahrbuch der Preußischen Kunstsammlungen*, 46 (1925), 203–47; idem, 'Unveröffentlichte frühe deutsche Schmuck- und Minnekästchen', *Zeitschrift des Deutschen Vereins für Kunstwissenschaft*, 9 (1942), 145–72; idem, 'Unbekannte elsässische Minnekästchen der Spätgotik', *Weltkunst*, 27 (1957), 10–11.

[12] *Die Zeit der Staufer*, ed. by Reiner Hausherr, Ausstellungskatalog Württembergisches Landesmuseum Stuttgart, 1–3 (Stuttgart: Württembergisches Landesmuseum, 1977), Nos 531–33.

[13] Appuhn, 'Die schönsten Minnekästchen aus Basel', p. 149.

[14] Diemer and Diemer, 'Minnesangs Schnitzer', pp. 1035–36.

II

The oldest, most famous, and most interesting piece of this group is the *Minnekästchen* already mentioned above, dating to the second half of the thirteenth century, kept in the Bayerisches Nationalmuseum of Munich (fig. 1).[15] The small chest, made from limewood, measures 8.3 cm in height, 22.5 cm in width, and 9.9 cm in depth. It was discovered among the property of the Bavarian royal family in 1816 and came into the collection of the Bayerisches Nationalmuseum in 1903. For a considerable time, the little box was reckoned among the masterpieces of the collection,[16] until, after its authenticity had been called into question, it was banished to the museum's vaults, where it unfortunately remains to this day.[17]

The chest is constructed from two boxes laid inside one another. The inner box is made from four sides fixed to each other with zinc, into which the greater part of a long text has been carved. The outer box consists of four figured reliefs in cut-out technique and four ornamented right-angled corner connections, carved from one piece. Into the lid, made also from one piece, eight reliefs fashioned in *opus interasile* are inserted. On the longer sides of the outer box, leafed tendrils form three medallions with figured scenes, while the shorter sides feature a scene in an oblong frame. These tell a short story, beginning with the left medallion on the front, continuing on the back, and ending on the left lateral side. A man, walking to the right, has grasped the cord of his mantle with a gesture typical for the time of the Staufer. In the middle medallion he, in a slightly bowed posture and with hands raised in an imploring manner, meets a seated woman, who at first reacts to his courting with a rejecting gesture. Between the second and the third medallion, an eagle with spread wings has been added, carrying in its claws an inscribed band which refers the reader to the beginning of a poem (top left of the front): 'lis durt obinan' ('begin up there with reading'). The last medallion shows a fiddler in a peculiar posture; next to him there is an inscription, 'Venus'. In the first medallion on the back we see the woman who had been courted on the front shooting an arrow into the man's heart with the help of a second woman (Lady Venus?). In the middle medallion, he presents his beloved with a little box. In the last medallion on the back the pair has come together, touching each other at the chin. The scene on the right lateral side is reminiscent of a

[15] Munich, Bayerisches Nationalmuseum, Inv.-Nr. R 8071.

[16] *Kunst und Kunsthandwerk, Meisterwerke im Bayerischen Nationalmuseum München, Festschrift zum hundertjährigen Bestehen des Museums 1855–1955* (Munich: Bruckmann, 1955), p. 38, fig. 13.

[17] The varied history of the box from its discovery onwards, which also provides an interesting case of history of research, cannot be recounted here. For further details, see Georg Himmelheber, 'Das Münchner Minnekästchen – eine Chronik', *Zeitschrift für Kunstgeschichte*, 47 (1984), 243–47, and Diemer and Diemer, 'Minnesangs Schnitzer', as well as my doctoral dissertation, 'Minnemotive in der deutschen Kunst des Mittelalters – Zu den so genannten Minnekästchen' (Ludwig-Maximilians-Universität, Munich), to be finished in the near future, in which all issues relating to this exceptional object will be discussed in detail.

Figure 1. Munich, Bayerisches Nationalmuseum, Inv.-Nr. R 8071,
Münchner Minnekästchen.
Printed by permission of the Bayerisches Nationalmuseum, Munich.

wedding: Lady Venus has laid her arms around the pair, who stand facing each other, with another fiddler playing along. The opposite lateral side shows the woman lying in bed, receiving the man with opened arms, who tenderly bends over her.

A long Middle High German text, which apparently was specially designed for the little chest, has been inscribed into all inner sides of the box.[18] It is a kind of love letter of a man to the woman he adores, in which he praises her beauty, youth, and virtuousness:[19] 'du bist allir frowen vorspan' ('you are the ornament of all women')

[18] Demonstrated by the text referring to the chest itself, and by the spacing of the letters on the ground.

[19] For the whole text, see Göbel, 'Das Münchner Minnekästchen', p. 311; for a translation to modern German, see Christine Wand-Wittkowski, 'Die Inschriften des Münchner Minnekästchens: Eine Fälschung?', *Zeitschrift für Deutsche Philologie*, 117 (1998), 38–54 (p. 43).

and ‘ir sint ein rose bluginde iugint unde inwart ohc nie so ganzir tuginde an frowin nie also an uhc’ (‘thou art a rose of flourishing youth and on no other woman there is virtue as on thee’); he yearns for nothing more than to spend a night in her arms: ‘ahc gundis du mir armin einu naht, zu ligini an dinimi armi’ (‘oh that you would grant me one night, to lie in your arms’); and he closes with the wish that the devil might take all those who disturb the friendship between him and his beloved: ‘swer unsir zwegir friuntscaft vorwerri oder wendi das den der tievil schendi’ (‘him who disturbs or destroys our friendship the devil shall torment’).

The original appearance of the box, which today is reduced to a wooden surface, could be reconstructed as follows: the decorated angled corner connections (which were originally longer than they are today), served as legs, the wood was rendered in white, apparently being intended to imitate ivory, and the gold-plated nails that can be seen today were lacking originally. The cut-out reliefs were backed with red-painted tin foil, ornaments and letters were filled in with red and green wax pastes (which have been partially preserved), and individual parts, especially of the human figures, were possibly painted and/or gilded. All this indicates that the intricate piece was designed to imitate a precious ivory chest.[20]

In response to increasing doubts about the chest’s authenticity, the Nationalmuseum decided, from 1984, to commission scientific and (more[21]) linguistic analyses. The chemical composition of the materials used (waxes, colours, nails) as well as the age of the wood were assessed. These analyses both concluded that the chest, or at least the materials employed, date from medieval times.[22] Several German linguistic experts arrived at the same result, pronouncing both the textual form of the rhyming love letter and the language as medieval.[23] Nevertheless, a thorough art historical examination has yet to be undertaken.[24] While some tentative endeavours have been made, there has been no examination of the motifs employed on the box or attempt to place them, artistically, in a historical period and cultural landscape, nor has it

[20] On the reconstruction of the chest in detail see Göbel, ‘Das Münchner Minnekästchen’, pp. 301–04 and fig. 13.

[21] Three experts of the 1920s voted for a Middle High German origin (expertises not published).

[22] This is not the place to give a detailed account of the results of the analyses. For details, see the extensive work of Göbel, ‘Das Münchner Minnekästchen’, pp. 301–04.

[23] For the love letter, see Wand-Wittkowski, ‘Die Inschriften des Münchner Minnekästchens’, pp. 41–49. The references from the 90s have not been published as yet, but all German scholars confronted with the text (except for Hans Fromm) do not doubt the authenticity of the text (see Göbel, ‘Das Münchner Minnekästchen’, n. 89).

[24] Among other things, it has not been assessed whether the mode of construction or the craftsmanship fits into the context of the second half of the thirteenth century. There are indeed cut-out works imitating ivory models dating from this period. Particular mention should be made of the book cover from the Weingarten cloister (now Vienna, Kunsthistorisches Museum, MS 4981, *c*. 1235) and of the small chest in the Augustinermuseum in Freiburg im Breisgau.

been assessed whether this kind of design work was possible in the thirteenth century. Contrary to the conviction of Diemer and Diemer, the motifs concerned are not an unprecedented phenomenon among medieval artwork, nor is the chest of 'dubious' craftsmanship.[25] At this point, let me mention some parallels which, in my opinion, prove that the scenes employed on the chest indeed remain within the boundaries of depictions of *Minne* common in the German-speaking regions of the thirteenth century.

Not originating from *Minne*-iconography, but very typical for the second half of the thirteenth century all the same, is the gesture (most frequently used by men, but also occurring on women) of holding the tassel cord with a flexed finger — usually the thumb or forefinger — of the right or left hand.[26] A very beautiful but lesser known example of this gesture can be found in the relief figure of a man on the back of the so-called Staufer-cameo in the Museum zu Allerheiligen in Schaffhausen in Switzerland (*c*. 1240).[27] However, it is not only this conspicuous gesture that connects this exceptional piece of Staufian goldwork with the Munich chest. There is also the style of the human figure and his clothing, as well as the epigraphic characteristics. Clear correspondences can be observed between the figures on the Munich chest and the physiognomy of the cameo figure: both are in strict profile with slightly rounded faces, straight transition from forehead to nose, eyes rendered in frontal view, and a small mouth. Comparable, too, is the slightly bowed posture as well as the long and straight folds, sometimes ending in acute angles, which puff out immediately above and below the narrow waistband.

Furthermore, the 'erotische Zumutung'[28] of the bed scene is not unknown in medieval art, and there are indeed even more explicit portrayals. Almost all of those thirteenth-century manuscripts of the great heroic romances, which originated at the same time and place in the German-speaking region, feature bed scenes: for example, the Berlin manuscript of Veldecke's romance *Eneas*[29] and the Tristan Codex in

[25] Diemer and Diemer, 'Minnesangs Schnitzer', p. 1027.

[26] This gesture was fashionable in the whole of Europe between the late twelfth and the fourteenth century; however, it is especially frequent in the thirteenth century. For example, see sculptures in Naumburg, Bamberg, Strasbourg. The gesture is also to be found in contemporaneous literature: thus, for example in the *Tristan*, Gottfried describes the elegant and perfect appearance of Isolde (Gottfried von Straßburg, *Tristan*, ed. by Gottfried Weber (Darmstadt: Wissenschaftliche Buchgesellschaft, 1967), v. 10935–39): 'diu tassel dâ diu solten sin, / dâ was ein cleinez snuorlîn / von wîzen berlîn getragen. / dâ haete diu schoene în geslagen ir dûmen / von der linken hant' (Into the tassels a delicate cord of white pearls was inserted. Into this, the beauty had hooked the thumb of her left hand).

[27] *Die Zeit der Staufer*, No. 607, with literature.

[28] Diemer and Diemer, 'Minnesangs Schnitzer', p. 1026, mean that these pictures were too much for the sensitive eyes of the ladies.

[29] Berlin, Staatsbibliothek, MS germ. 282, fol. 39, Vulcanus surprises Venus and Mars committing adultery. Although the couple are covered by a blanket, it is clear (for example, by the posture of the feet) what is happening at this moment.

Munich.[30] In both manuscripts there are miniatures showing couples during sexual intercourse. The couples are covered by blankets, while at the same time indicating clearly what is being hidden.[31] Although not a bed scene proper, and dating somewhat later, there is also the author's representation of Konrad von Altstetten in the Codex Manesse, which shows a tender meeting as Konrad's *frouwe* bends over him and touches him lovingly on neck and chest.[32]

Nor does the scene in the first two medallions on the back of the chest merit such terms as 'singular' or 'base'.[33] The motif of the arrow of love hitting the man in the heart is to be found in a range of versions throughout the whole of the Middle Ages, with the arrow shot variously by the god of love,[34] the Lady Venus,[35] or by the adored woman herself.[36] Diemer and Diemer were particularly suspicious of the chest's self-referentiality. However, this fits precisely into the genre of donor representations. There are many parallels, particularly among miniatures, in which the book that is given as a gift features in its own illustrations.[37] It is perfectly possible that a kind of donor representation existed also in non-religious contexts. All motifs employed in the depictions of the chest can be found in contemporaneous *Minne* poetry: the man on lookout for a bride, the first shy meeting, the accompanying

[30] Munich, Bayerische Staatsbibliothek, MS cgm 51, fols 10^{v}, 101^{v}.

[31] There are almost no depictions of sexual activities preserved from the thirteenth century. Besides the ones mentioned, there is a miniature in a manuscript of Aldobrandino of Siena's handbook *Régime du Corps* at the beginning of the chapter 'how to sleep with a woman'. The physical activities of the couple are clearly discernible under the blanket, the legs of the woman, for example, being widely spread (London, British Library, MS Sloane 2435, fol. 9^{v}).

[32] Heidelberg, Universitätsbibliothek, MS cpg 848, fol. 249^{v}. Incidentally, here, as in the case of the Munich chest, the background is completely covered with rose tendrils.

[33] Like Diemer and Diemer, 'Minnesangs Schnitzer', p. 1028, term them.

[34] Examples from the French cultural sphere are numerous; here I just want to point out a miniature on the poem *Ci commence del Arbre d' Amour* (manuscript dated to 1277; Paris, Bibliothèque Sainte-Geneviève, MS 2200, fol. 198^{v}). There, the wingless god of *Minne* stands on top of a tree and holds bow and arrow in his hands.

[35] Thus, Ulrich von Liechtenstein, in his author's representation in the Codex Manesse, holds a helmet, which is decorated with Lady Venus holding a red arrow in her right and a torch in her left hand. Heidelberg, Universitätsbibliothek, MS cpg 848, fol. 237^{r}.

[36] An attractive example of this version is to be found on the inside of the lid of a chest, originating *c*. 1300/20 in the field associated with the Codex Manesse: New York, Metropolitan Museum of Art, The Cloisters Collection. The woman has wounded her chosen companion in the heart with an arrow. In the following scene he presents her with his heart, pierced by several arrows.

[37] Very famous is, for example, the miniature on fol. 3^{r} of the Codex Aureus Escorialiensis (El Escorial, Biblioteca de San Lorenzo, Cod. Vit. 17). But also in not so prominent manuscripts one can find similar scenes; see Eva Moser, ed., *Buchmalerei im Bodenseeraum 13.–16. Jahrhundert* (Friedrichshafen: Gessler, 1997), no. VÄ 5.

fiddler, the help of Lady Venus, the kiss, and the end in bed.[38] Together with the exceptionally high quality of the craftwork, these indicate that the chest originated in courtly surroundings.[39]

Another *Minnekästchen*, manufactured between 1400 and 1420, was probably owned by a member of the bourgeoisie rather than the nobility, although an owner belonging to the town aristocracy cannot be wholly ruled out.[40] The small, footless chest, among the stock of the fine arts dealer Böhler in Munich in 1998, is made from maplewood and measures 13 x 26.5 x 16 cm.[41] It is decorated on all four sides as well as on the lid in rather low relief, with carved figures. In the centre of the relief on the lid (fig. 2), on a hillock surrounded by a wickerwork fence there grows a linden tree, the ends of its branch-work sprouting the characteristic heart-shaped leaves. Within this closed sphere, there is an animal, probably a dog. A man (left) and a woman (right) stand on either side of the tree, each holding out an inscribed band towards the middle. While the man assures, 'tru ich halt wie du wilt' ('I will keep faith with you as you want'), the woman answers, 'bis stet das ist mi(n) rot' ('Be firm of character, that's my advice to you'). The pair is clothed in distinguished ankle- and floor-length garments which are close fitting about the chest, but fall elsewhere in abundant folds.

Both long sides show variations of the theme on the lid. There are two couples on each side, facing each other and holding inscribed bands. The front picture is divided almost exactly into two by a lock in the middle with a dog lying underneath, gnawing a bone. While the faces, hair-styles, and build of the couples closely resemble the figures on the lid, their clothing is markedly different. The men are wearing short *schecken* with emphasized chest and moderately sized baggy sleeves. The women's dresses still have a rather high waist and a deep décolleté, but the sleeves

[38] Diemer and Diemer, 'Minnesangs Schnitzer', p. 1925, reject the idea that the depictions have a connection with the medieval *gradus amoris*, though only referring to the literature and without their own line of reasoning.

[39] As mentioned, the little chest was discovered among the possessions of the Wittelsbach family, in whose hands it can possibly traced back to the sixteenth century; there is an entry in the inventory of the Munich Kunstkammer from the year 1598 which might refer to the chest. See Göbel, 'Das Münchner Minnekästchen', p. 307 and n. 81.

[40] In more detail, Jürgen Wurst, '"min tru ich dir halt an end": Ein unpubliziertes Minnekästchen aus dem frühen 15. Jahrhundert', *Weltkunst*, 70 (2000), 2198–2201. The divided coat of arms, with a red piece of rock on the right and three black and white stripes on the left, to be seen on the inside of the lid, has not been identified as yet. Nevertheless, a crest alone cannot be seen as a definite indication for a noble customer; besides the crest might have been added at a later time.

[41] The origin could not be traced back further. A possible indication to a former owner is the inventory number TR 873, painted in black ink onto the bottom of the chest. To date, it could not be assigned to a specific collection. In the meantime, the chest has been sold to a collector unknown to me.

Figure 2. *Minnekästchen* in the stock of the fine arts dealer Böhler in Munich, relief on the lid. Photo: Jürgen Wurst.

are slightly less exuberant and feature close-fitting cuffs. The inscriptions of the bands repeat the theme of the lid, at times verbatim. The couple to the left pledge mutual fidelity with the words 'uf din tru bu ich al stund' (man: 'On your faith I rely at every hour') and 'din tru lob ich nu' (woman: 'To be faithful to you I vow now'). The woman of the right couple advises her gallant lover, 'bis stet das rat ich dir' ('Be firm of character, I advise you'), while he answers, 't?w halt ich dir wie du wilt' ('Faith I will keep with you as you want').[42] Two other variations of the theme are represented on the relief on the back (fig. 3). A young woman and a no longer youthful man form the first couple. While she asks 'sag gut gesel din sin' ('Tell me my good man what is your desire?'), his answer is not completely clear as it is only partly legible: 'two g?a? frou min'.[43] The woman of the second pair with raised left hand promises fidelity to her adorer, who kneels before her, with the words 'din tru

[42] The second letter of the first word is no longer clearly decipherable. The remains indicate an 'r', amounting to the abbreviated word *tr(u)w* (faith, fidelity), which would complete the sentence in a sensible way.

[43] The second and fourth letter of the second word are difficult to reconstruct. The second minuscule might represent 'n', amounting to *gna*, which could most likely be completed to *gnad*. Indeed the last letter, of which only a very small part is visible, because of the characteristically short left stroke might be 'd'. Nevertheless, this does not make an intelligible sentence, as the first word *two* does not occur in the *Deutsches Wörterbuch*. The Swiss *Idiotikon* knows the verb *twollen* 'to talk animatedly, flirt', etc., which would be suited to the context, but cannot be connected easily with the *gnad*.

Figure 3. *Minnekästchen* in the stock of the fine art dealer Böhler in Munich, relief on the back. Photo: Jürgen Wurst.

ich nu loben s(oll)' ('To you I now promise faith'). The gallant young lover's answering vow, 'min tru ich dir halt an end' ('My faith I hold with you without end'), seems, despite his prostrating himself, not to be completely in earnest. Unseen by the woman, he has crossed fore and middle finger thus cancelling the obligatory nature of his vow.[44] In the relief of the left lateral side there stand a monk and nun, facing each other. The monk holds an inscribed band, on which we read 'ein gut ior dir got geb' ('A good year God shall give to you'). The scene on the right lateral side is less restrained; even without inscribed bands by way of explanation, it is obvious what is happening. Partly covered by a tree in the centre of the picture, a young man in a slightly crouching posture approaches a girl. While beckoning her with the forefinger of his left hand, with the right he covers his genitals, thus revealing his sexual intentions. The virtuous girl (with plaited hair and outstretched arms) shrinks back from the youth's unequivocal proposition.

In contrast to the Munich chest, this little box is clearly not telling a continuous story. On the contrary, these are discrete depictions of a man and a woman promising fidelity to each other in the form of inscribed bands, just as can be found on tapestries, sealstones, or clay moulds of the fifteenth century.[45] Further, the scenes

[44] As far as I have surveyed the literature, this still known and utilized gesture has not been subject to a detailed examination. For the medieval context, one could argue for the above meaning by an *argumentum ex contrario*, as usually the fore and middle finger are extended parallel towards heaven when taking an oath. See Eberhard von Künssberg, *Schwurgebärde und Schwurfingerdeutung* (Freiburg im Breisgau: Herder, 1941), pp. 25–28.

[45] For tapestries, see Anna Rapp-Buri and Monika Stucky-Schürer, *Zahm und wild: Basler und Straßburger Bildteppiche des 15. Jahrhunderts* (Mainz: von Zabern, 1990), nos 5, 12, 27,

deal with specific human types and specific situations of *Minne*, such as the relationship between an older man and a young woman.

Scenes comparable to those of the Böhler box can be found on tapestries and etchings, dating from only a few years later: a garden with a man and a woman moving about in it, the linden underneath which lovers meet in the songs of the minstrels,[46] and the dog, being almost omnipresent in scenes representing *Minne* (although in this context it doubtlessly must be seen as a symbol of fidelity). Note, though, that love and sexuality are no longer openly expressed; in contrast to the thirteenth-century chest, 'offensive' scenes are either transferred into the sphere of animals, alluded to in code, or simply rendered in a negative way. Sexual undertones are mixed only subliminally among the vows of fidelity and constancy. For example, the dog gnawing on a bone occurs several times in unambiguously sexual contexts in the printed graphics of the second half of the fifteenth century.[47] The right lateral side shows explicitly what is only alluded to by the dog, but this scene is evidently not to be understood in a positive way. Rather, it shows masculine desire as a cause of fright. In such a context, the appearance of the monk and nun seems slightly odd. However, in the fifteenth century especially, the sexual life of religious persons was an important issue in carnival plays and tales, and there exist a number of depictions of clerics in unambiguously sexual situations,[48] but this is not the case here. In this relief, the monk merely delivers a New Year's greeting. This custom, popular among all social strata in the late Middle Ages, provided an opportunity for presenting gifts of all sorts.[49] Little boxes, tapestries, prints, and other items were common gifts among the less well off.[50] New Year's gifts were demonstrably also often distributed

34, 55, 72, 89; for clay moulds, see Wilhelm von Bode und Wilhelm Fritz Volbach, *Gotische Formmodel* (Berlin: Grote, 1918), nos 2, 7, 10–12; for sealstones, see J. M. Fritz, *Goldschmiedekunst der Gotik in Mitteleuropa* (Munich: Beck, 1982), no. 967.

[46] 'Under der linden, an der heiden, da unser zweier bette was' ('under the limetree, where our bed was'): Walther von der Vogelweide, *Leich, Lieder, Sangsprüche*, song 16,1.

[47] In the figured alphabet of Master E.S. (letter g), also in the engraving of the fountain of youth of the Master with the Banderolles or in the ornament sheet with morris dancers by Israhel van Meckenem. See, for further information and literature, Jürgen Wurst, *Das Figurenalphabet des Meisters E.S.* (Munich: tuduv, 1999), p. 70, n. 294.

[48] For examples and literature, see Wurst, *Das Figurenalphabet des Meisters E.S.*, pp. 70–71, n. 295.

[49] Paul Heitz, *Dreissig Neujahrswünsche des 15. Jahrhunderts* (Straßburg: Heitz, 1917), p. 9. Known from documentary sources are, for example, New Year's gifts of Duke Georg der Reiche of Bavaria to his wife Hedwig; cf. Johann Dorner, *Herzogin Hedwig und ihr Hofstaat: Das Alltagsleben auf der Burg Burghausen nach Originalquellen des 15. Jahrhunderts*, Burghauser Geschichtsblätter, 53 (Burghausen: Stadtarchiv, 2002), p. 92. On the exchange of gifts see also Dorner, *Herzogin Hedwig*, pp. 93–95.

[50] For little boxes, see Kohlhausen, *Minnekästchen im Mittelalter*, no. 62, and Kohlhausen, 'Unbekannte elsässische Minnekästchen der Spätgotik', p. 10, although the authenticity has

by religious communities.[51] However, it is hard to imagine a chest with scenes of lovers as the gift to or from a member of a cloister, although there have been such presents, as can be seen in the case of the Malterer Tapestry from the cloister of Adelshausen near Fribourg (beginning of the fourteenth century).[52] It seems more likely that the customer who had the chest made wanted, by commissioning a piece which represented religious persons, to assure himself of divine assistance, that ultimately the hoped for prosperity comes from God, a sentiment which is indeed expressed in the New Year's greeting.[53] Another aspect might come into this as well. There are figured tapestries showing a maiden who, in her search for constancy and fidelity, seeks advice from a monk and a nun, as they practise the 'true' *Minne*, that is, the love of God.[54] Thus, the lateral sides of the chest cover the range of possibilities of *Minne*: the relationship of unequal partners (young – old), purely sexual relationships, false vows, and a love dedicated to God. Nevertheless, the relief of the lid remains the most important feature for both donor and recipient of the chest. The partners, both clothed in festive but respectable garments, face each other, accompanied by symbols of fidelity and encoded hints of their love; she expects her companion to display constancy, reliability, and firmness of character.[55] Hence the chest might have been the New Year's gift of a man to his adored, perhaps even an engagement or wedding present. However, it is equally possible that this was a gift

been doubted; cf. Diemer and Diemer, 'Minnesangs Schnitzer', p. 1030. For tapestries, see Rapp-Buri and Stucky-Schürer, *Zahm und wild*, pp. 87–99. Tapestries as public and extravagant gifts also served as decoration within the domestic sphere. Weddings, engagements, or anniversaries presented welcome opportunities for this, as can be demonstrated from the sources for at least some of the tapestries. For prints, see Heitz, *Dreissig Neujahrswünsche des 15. Jahrhunderts*, nos 8, 12, 16.

[51] Referred to in Kohlhausen, 'Unbekannte elsässische Minnekästchen der Spätgotik', p. 11.

[52] We are here probably dealing with a gift to a member of the family Malterer of Fribourg, who was living in the monastery; cf. Jutta Eissengarthen, *Mittelalterliche Textilien aus dem Kloster Adelhausen im Augustinermuseum Freiburg* (Freiburg im Breisgau: Augustinermuseum, 1985), pp. 23–30, and in detail, Susan L. Smith, *The Power of Women: A Topos in Medieval Art and Literature* (Philadelphia: University of Pennsylvania Press, 1995), pp. 152–56.

[53] A good example for this phenomenon is a printed sheet from the upper Rhine, dating to *c*. 1465. There, a naked Christ Child is surrounded by symbols of fertility and luck (hares, flowers, a box of confectionery); behind there is a little chest from which well up pieces of paper with the inscription 'fil god iar' (a happy new year). Cf. *Spätmittelalter am Oberrhein: Alltag, Handwerk und Handel 1350–1525*, Ausstellungskatalog Badisches Landesmuseum Karlsruhe (Stuttgart: Thorbecke, 2001), no. 194, fig. P. 108.

[54] Betty Kurth, *Die deutschen Bildteppiche des Mittelalters*, vols I–III (Vienna: Schroll, 1926), II, pl. 204/5a and b: Cologne, Kunstgewerbemuseum and London, Victoria and Albert Museum; both are datable to the last quarter of the fifteenth century.

[55] Jacob Grimm and Wilhelm Grimm, *Deutsches Wörterbuch* (Leipzig: Hirzel, 1856–1956), vol. X, 2, 2 (1919), cols 2549–53.

from a woman to a man, as might be indicated by the wish for the man's constancy uttered by the female figure on the lid, as well as by the inscribed bands held by the other women on the chest. In the Rechtssumme of Berthold of Fribourg (last quarter of the fourteenth century) one reads about mutual presents on the occasion of an engagement, where individual items such as finger rings, belts, and so on are also listed.[56]

A chest from the Historisches Museum of Basel (first half of the fifteenth century[57]), worked in cut-out reliefs set before painted paper, illustrates the power of woman over man, a rather popular topic in the misogynist late Middle Ages. On the lid, a man presents a woman with his heart, which she seizes and squeezes over a kind of bowl.[58] The front shows other variants of how to torture a man's heart (fig. 4). The woman grates a heart into a mortar, while stating 'das herz din lidet pin' ('Your heart has to suffer pains'), while the man is begging for mercy: 'begnod mich all liepetes jungfrelin' ('Reprieve me, dearest maiden'). On the back, a young woman catches a bird with tongs or lime-twigs, a common allegory of the female hunt for a man. The chest thus displays motifs occurring particularly in the printed graphics of the second half of the fifteenth century.[59]

Only a small number of known chests display such an extensive pictorial program while being as accomplished craftwork as the examples presented above. The majority of chests are worked rather simply with stereotypical decoration. On a background of waffles or rhombs, there frequently occur animals such as monkeys, hares, dogs, lions, bears, foxes, and harts, mythical creatures such as unicorns and dragons, and the like. Whether these depictions are purely ornamental (all these animals can be found in marginal illustrations of manuscripts, in wall paintings, as well as on floor and oven tiles, goldsmith's works, and so on) or whether there was a profound meaning concealed in them can no longer be resolved conclusively. For some animals popular in the Middle Ages, such as the hare, hart, or monkey, a metaphorical meaning suggests itself, as they were used allegorically in literature of the

[56] In the Rechtssumme of Friar Berthold it says: 'Eelichs lebens anfang würt getan in maniger weise etwen mit kleinoten als mit einem ring und fingerlin und mit anderen dingen die ein mensch dem anderen gibt' ('marriage can begin in many ways, for example with jewels like finger rings or other things men could give to each other'). *Die Rechtsssumme Bruder Bertholds*. ed. by Georg Steer and others (Tübingen: Niemeyer, 1987), II, letters D–G, s.v. E(e), 7, 5–10.

[57] Basel, Historisches Museum Inv.-Nr. 1953.407. The chest has generally been dated to the first half of the fifteenth century, which strikes me as rather early. Though the man's clothing with bells at the hem indicates an early manufacture, the subject and especially the manner of the leafed tendrils suggest an origin in the second half of the century.

[58] The object in the man's left hand is not easily discernible due to damage. It is clear, nevertheless, that the woman reaches out for something given to her by the man, and the visible remains indicate a heart.

[59] For example, the woodcut by Master Casper with the tortures of a man's heart (Berlin, Kupferstichkabinett).

Figure 4. Basel, Historisches Museum, Inv.-Nr. 1953.407.
Printed by permission of the Historisches Museum, Basel.

time. Richard de Fournival's *Bestiare d'Amour*, which was also found in a German translation, interprets the characteristics of real and mythical creatures with regard to *Minne*; possibly there are indications to be found here.[60] In addition, there are hunting scenes[61] or, in some cases, single letters, coats of arms, crowns (sometimes above a heart or clasped hands), rosebuds, leafed tendrils, and the like, also at times connected with short aphorisms or New Year's greetings. Representative of a large group of similar examples is a small chest from the Museum für angewandte Kunst in Cologne (fig. 5). Its simple carved decoration consists of animals or mythical creatures on a hillock overgrown with flowers and grass. The date and place of manufacture are hard to determine, as there is as yet no securely dated similar piece with known provenance. Usually, these chests were designated — and catalogued as well — as 'from the Upper Rhine, fifteenth century'. I suspect that most in this group of works, which were acquired by collections mainly in the last two decades of the nineteenth century, are forgeries; scientific studies might be able to clarify this by carbon dating the wood used.

[60] Only one manuscript preserved; see John Holmberg, *Eine mittelniederfränkische Übertragung des Bestiare d'Amour* (Uppsala: Lundequist, 1925).

[61] In medieval literature, descriptions of hunting are among the most popular metaphors for the relation between the sexes. Numerous important and minor works have come down to us, probably the most well-known being the hunt of Hadamar of Laber.

Figure 5. Cologne, Museum für angewandte Kunst, A 868.
Printed by permission of the Museen der Stadt, Cologne.

III

In contrast to the Diemers' assertion that chests are not mentioned in German medieval literature, let alone in an important function, these objects can be found in various contexts and functions.[62] When Iwein, the eponymous protagonist of Hartmann von der Aue's chivalrous epic written in the twelfth century on French models, meets his wife Laudine again after many years of absence, she does not recognize him anymore. Laudine complains about her husband, whom she has repudiated on account of his unreliability, and about her life as a single woman. Iwein cannot and does not

[62] Diemer and Diemer, 'Minnesangs Schnitzer', p. 1025.

want to disclose his identity, and thus leaves the site of their reunion in a thoughtful and depressed mood. Hartmann uses this opportunity to fashion from the reflections of his hero one of the most touching creations of Middle High German poetry:[63]

> Von dann schiet er trûrec dô
> Und sprach wider sich selben sô
> 'vrouwe, wie lützel dû nû weist
> daz tû den slüzzel selbe treist!
> Dû bist das sloz und daz schrîn
> Dâ êre unt tiu vreude mîn
> Inne beslozzen lit.'
>
> (Sadly he departed from this place
> speaking to himself thus:
> 'Woman, how little you know
> that you yourself are carrying the key!
> You are the lock and the shrine
> Wherein my honour and my joy
> Are enclosed.')

Items of prime importance, namely *êre* (honour) and *vreude* (joy, happiness), being central terms in the social self-conception of the knight,[64] are kept in a shrine, which is here employed as metaphor for the beloved woman, and to which only she herself has access, being both keeper of the key and at the same time the lock. Walther von der Vogelweide also employs the image of the shrine which holds non-material, but valuable, content.[65] Nevertheless, the term 'shrine' not only denotes reliquaries, at times extraordinarily intricate, but also (small) boxes which conceal precious items, treasures, expensive garments, etc. Thus, Gerhard von Minden mentions the theft of a chest filled with finger rings,[66] and the *Nibelungenlied* tells of a chest of jewels.[67] The shrine also occurs repeatedly in the minnesongs of the thirteenth century. Here,

---

[63] *Iwein: Eine Erzählung von Hartmann von Aue*, ed. by G. F. Benecke and K. Lachmann, rev. by Ludwig Wolff, 7th edition (Berlin: de Gruyter, 1968), vv. 5541–47.

[64] Otfrid Ehrismann, *Ehre und Mut, Aventiure und Minne: Höfische Wortgeschichten aus dem Mittelalter* (München: Beck, 1995), pp. 65–70 and 245–48.

[65] Walther identifies the shrine, in which he would like to see united *êre* (honour), *guot* (goodness), and *gotes hulde* (God's grace), with the human heart. Walther von der Vogelweide, *Leich, Lieder, Sangsprüche*, song 2,1, v. 15.

[66] Gerhard von Minden, *Fabeln*, ed. by W. Seelmann (Bremen: Kühtmann, 1878), 103,17: 'do stal he e schrin der koeniginnen, / der vingerlin vele was enbinnen' ('So he stole a shrine of the queens in which were contained many finger rings').

[67] *Das Nibelungenlied*, ed. by Michael S. Batts (Tübingen: Niemeyer, 1971), 489,1: 'mit edelen gesteinen ladet man ir diu schrin' ('a shrine is filled for her with precious stones').

it is employed on the one hand as a metaphor for the virtuous woman;[68] on the other hand it is the actual gift for the courted woman. In a mid-thirteenth-century poem by the Swiss minstrel Steinmar, for example, the woman demands a number of gifts from her admirer for which she is going to let him come onto her straw bag, meaning of course her bed:[69]

Friunt, ich hân iu niht getân:
Swaz ich iu geheizen hân,
des mag ich iuch vil wol gewern.
Ir gehiezent mir ein lîn,
zwêne schuohe und einen schrîn:
des wil ich von iu niht enbern.
Wirt mir daz, sô wende ich iuwer swaere
[. . .]
sô wil ich iuch zuo mir ûf den strousac lân:
[. . .] Herzentrût, mîn künigîn,
sage an, liep, waz sol der schrîn?
Wilt du ein saltervrouwe wesen?

(My friend, I have not done it to you
What I have promised you
I will give to you indeed
You promised me linen,
Two shoes and a shrine:
From this I won't let you
When I receive these, I will turn your pains
[. . .]
and I will let you onto my straw bag.
[. . .] My heart, my queen,
tell me, my love, why a shrine?
Would you be a Jesus Freak?)

It is of some interest that in this poem the man enquires why, exactly, it is a shrine the woman asks for, and whether she is a saintly woman (thus the opposite of a sensual and sexually active woman). Apparently, the man sees the shrine as a kind of relic container. The woman unfortunately does not answer this question; possibly she interprets it as a reliquary of love, perhaps an object of *memoria* of a relationship.[70] In this song it becomes clear that gifts have a role to play in relationships between the sexes; in the present case the man, in return for his gifts, expects — and

[68] *Die Schweizer Minnesänger*, ed. by Karl Bartsch (Darmstadt: Wissenschaftliche Buchgesellschaft, 1964), II, 25.

[69] *Die Schweizer Minnesänger*, ed. by Bartsch, XIX, 11, 23–36.

[70] Michael Camille, *Die Kunst der Liebe im Mittelalter*, trans. by Inga-Brita Thiele (Cologne: Könemann, 2000), p. 9.

in the end also receives — sexual favours. Similar instances can be found in medieval didactic literature. Andreas Cappelanus, in his treatise *De amore*, written at the French court about the end of the twelfth century, refers, among other things, to the meaning and purpose of gifts in a relationship. He composes a list of items a man may give to his beloved without violating the boundaries of decorum. Among the many things he enumerates are *pyxides*, *vascula*, and *repositoria*,[71] that is, small containers of various shapes, with *repositoria* in all likelihood denoting little chests. He points out that love should not be bought by presents and that these consequently should be not too big.[72] Mainly the gifts are supposed to serve as *memoria* of the donor. This book, apparently widely known, also found reverberations in Germany.[73] In Eberhard von Cersne's love lessons *Der Minne Regel*, probably written before 1404 in the Low German dialect and based largely on the Latin model, a similar, though partly extended, list can be found. The queen of Minne, on the question which gifts 'eyn van dem ander nemen zal' answers with the following words:[74]

Frunt, ich will berichtin dich
und mynren dyne qual
eyn van dem andern tzemelich
nehmen mag und nehmen zal
[. . .]
laden, kestichin und scryn.

(My friend, I will instruct you
And reduce your pain.
One could take from each other
Without shame
[. . .]
Caskets and shrines.)

In 1440, Johannes Hartlieb, on a commission from Albrecht VI of Austria, translated Andreas's text. He keeps much closer to the Latin original and does not mention three different kinds of boxes, but only one which he calls *truhelin*.[75]

[71] *Andreas Capellanus regii francorum, de amore libri tres*, ed. by E. Trojel (München: Eidos, 1964), II,7, de variis iudicis amoris no. XXI.

[72] *De amore deutsch, Der Tractat des Andreas Capellanus in der Übersetzung Johann Hartliebs*, ed. by Alfred Karnein (München: Beck, 1970), book I, cap. 29, no. XXI.

[73] Alfred Karnein, 'Die Stimme der Intellektuellen im Mittelalter: Andreas Capellanus über Liebe, Sexualität und Geschlechterbeziehung', in *Liebesfreuden im Mittelalter: Kulturgeschichte der Sexualität in Bildern und Dokumenten*, ed. by Gabriele Bartz, Alfred Karnein, and Claudio Lange (München: Orbis, 2001), pp. 81–95.

[74] Eberhard von Cersne, *Der Minne Regel, Lieder*, ed. by Danielle Buschinger (Göppingen: Kümmerle, 1981), vv. 3848–63

[75] In some manuscripts one can read *schreindel* (with the same meaning); see *De amore deutsch*, ed. by Karnein, book I, cap 29, no. XXI.

Interestingly, this translation was reprinted several times in the second half of the fifteenth century; apparently given a new life by the renewed interest in chivalric subject matter, especially from city patricians.[76] It is not only from literature, though, that the role of these little chests as gifts and containers of love can be gleaned. Some miniatures and paintings show small containers serving as presents or storage facilities. A miniature in a French translation of Boccaccio's *De claris mulieribus*, illustrated in Paris in 1403, presents a good example for this function.[77] Johanna, the queen of Naples, who is surrounded by courtiers, is presented with an ornate wooden box filled with gold and jewelry, as can be seen through the opened lid. A small painting (second half of the fifteenth century), kept in the Museum der Bildenden Künste in Leipzig, of a love sorceress shows a chest containing not gold, but rather the heart of a man. Also this artefact clearly originates from a *Minne* context (fig. 6). A young woman, clad only in a see-through veil, is standing in the middle of a room filled with symbols of love (mirror, peacock feathers, a parrot, confectionery, a dog, flowers). On a chair to her side there stands a small, opened chest, decorated with tracery, which holds a red heart, probably shaped from wax. The woman, secretly observed by a young man, sprinkles water onto the heart while at the same time trying to set fire to it, thus taking up a motif current in contemporaneous literature. Interestingly, the heart is kept in the chest like a relic.

Chests are also mentioned occasionally in archival sources, though nowhere are descriptions of their appearance to be found; thus, they might have been very simple and undecorated pieces. Nevertheless, it appears that small boxes were used to store valuable belongings. To date, neither owner of any of these chests nor an actual occasion for such a chest's presentation has been convincingly identified. Further, the relevant marriage and luxury decrees of large medieval German towns provide little information about the kinds of permitted gifts. Chests are not mentioned at all as, being made from wood in most cases, they, in contrast to their possibly much more valuable contents, were almost worthless. In contrast to the German-speaking region, archival references to small boxes do exist in Italy, for example. The furnishings of a middle-class bride comprised two large chests (*forzieri*) containing the dowry as well as a small box, the *forzerino* (best translated as *Minnekästchen*), in which the bridegroom's personal gift to the bride was presented.[78] Forzieri and forzerino were carried before or after the bride on her way through the city towards

[76] Lieselotte E. Stamm-Saurma, 'Zuht und wicze: Zum Bildgehalt spätmittelalterlicher Epenhandschriften', *Zeitschrift des Deutschen Vereins für Kunstwissenschaften*, n.s., 41 (1987), 42–70 (pp. 65–70).

[77] Paris, Bibliothèque nationale de France, MS francais 12420, fol. 165^{r}.

[78] For a detailed discussion, see Johannes W. Pommeranz, *Pastigliakästchen: Ein Beitrag zur Kunst- und Kulturgeschichte der italienischen Renaissance* (Münster: Waxmann, 1995), pp. 34–39. Other terms testified for the small box are *cofanetti* or *goffanuccio*; see Max Seidel, 'Hochzeitsikonographie im Trecento', *Mitteilungen des Kunsthistorischen Instituts in Florenz*, 38 (1994), 1–47 (p. 27).

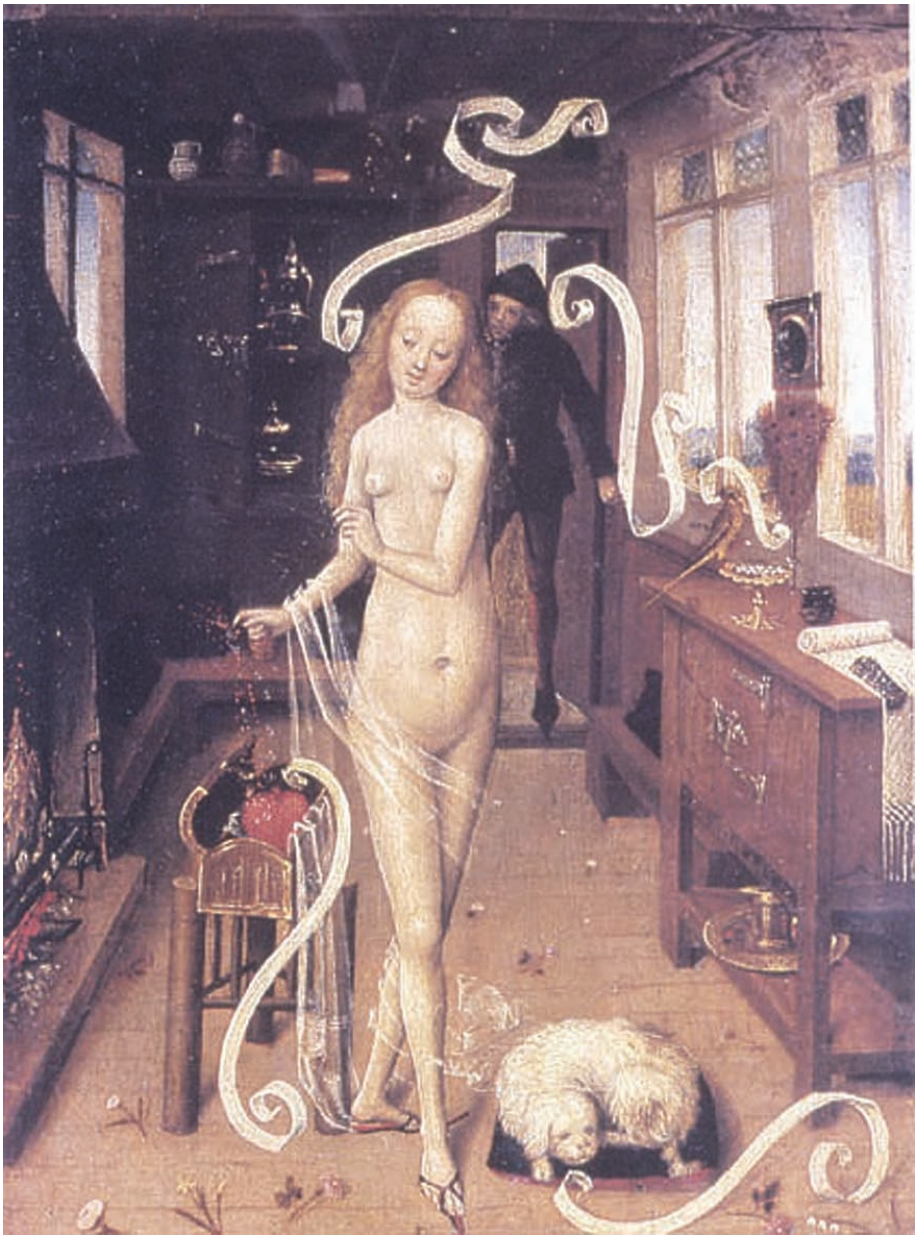


Figure 6. Leipzig, Museum der Bildenden Künste.
Printed by permission of the Museum der Bildenden Künste, Leipzig.

the home of the future husband. This custom seems to have abated at the end of the fifteenth century, and with it the small boxes vanished.[79] Unfortunately, the sources for the German-speaking region are less fruitful. While in Germany the bride would have gone to the bridegroom's house in a procession with her presents and dowry, chests and boxes are not mentioned in the related edicts.[80] At the same time it is certain that on the occasion of an engagement a small gift by the man was presented to the woman; with this gift the marriage contract between the families concerned was sealed.[81]

IV

The pictorial concept of the Munich *Minnekästchen* is markedly different from that of the fifteenth-century chests presented above. Just as in literature, a fundamental change has taken place. While the thirteenth-century depictions focus on eroticism, love, pleasure, and the subjugation of men by women, the Böhler and the Basel chests represent a completely different world. The public of the fifteenth century was apparently no longer interested in illustrations of the *Minne*-game (interestingly, the miniatures in manuscripts of the chivalric epics dating to the first half of the fifteenth century mainly show tournament scenes or scenes with ritual content, but very few love scenes[82]). Beyond the sublime motifs of the high *minnesong* are suggestively sexual themes which were depicted with less and less restraint, for example, in some almost comical engravings. At the same time, virtues such as fidelity and constancy came to be central issues of relationship between man and woman, at a time when steady and reliable relationships became more important, being regarded as necessary for the economic survival of a family.[83] The inscribed bands in the lid-relief of the Böhler chest reflect this. Fidelity becomes the guarantor

[79] Pommeranz, *Pastigliakästchen*, p. 35, with more literature.

[80] August Jegel, 'Altnürnberger Hochzeitsbrauch und Eherecht, besonders bis zum Ausgang des 16. Jahrhunderts', *Mitteilungen des Vereins für Geschichte der Stadt Nürnberg*, 44 (1953), 238–74 (pp. 252–55) (from a Nuremberg marriage edict from 1453); Ruth Schmidt-Wiegand, 'Hochzeit, Vertragsehe und Ehevertrag in Mitteleuropa', in *Die Braut, Geliebt, Verkauft, Getauscht, Geraubt: Zur Rolle der Frau im Kulturvergleich*, ed. by Gisela Völger and Karin von Welck (Cologne: Rankenstrauch-Joest-Museum für Völkerkunde, 1985), pp. 264–73 (pp. 272–73).

[81] Schmidt-Wiegand, 'Hochzeit, Vertragsehe und Ehevertrag in Mitteleuropa', pp. 266–69.

[82] Stamm-Saurma, 'Zuht und wicze', pp. 66–69.

[83] Ruth Schmidt-Wiegand, 'Ehe und Familie in der lehrhaften Dichtung des 14. und 15. Jahrhunderts', in *Haus und Familie in der spätmittelalterlichen Stadt*, ed. by Alfred Haverkamp (Cologne: Böhlau, 1984), pp. 195–214 (pp. 197, 201, 204–05); Claudia Opitz, *Frauenalltag im Mittelalter: Biographien des 13. und 14. Jahrhunderts* (Weinheim: Beltz, 1985), p. 88.

of success, as Kunrat von Ammenhausen puts it in his *Schachzabelbuch*.[84] The importance of marriage and family increases steadily, as does, consequently, the concept of fidelity. While in the thirteenth century it was not conceivable that a wife could be praised exuberantly in literature (according to Andreas Cappelanus, marriage and love are mutually exclusive[85]), in Ackermann von Böhmen's desperate lament for his prematurely deceased wife, a different tone can be perceived.[86] Ackermann complains bitterly that Death has taken away his dearest possession, a dirge which leads into the praise of a good wife. The housewife, or *wib*, who is virtuous, faithful, and constant, at the end of the century finally supplants the *vrouwe*, the lady who was the object of *Minne*. The latter did not vanish completely from the ideas of medieval society, but acquired increasingly negative connotations or transformed into misogynist depictions of women who domineer their husbands.[87] The *Minnekästchen*, being representations of contemporary relationship models, illustrate these changing perceptions.

[84] Kunrat von Ammenhausen, *Das Schachzabelbuch*, ed. by Friedrich Vetter (Frauenfeld: Huber, 1887), v. 11056.

[85] *De amore deutsch*, ed. by Karnein, book I, cap. 14, vv. 469–87, and cap. 29, no. IX, vv. 150–60.

[86] Johannes von Saaz, *Der Ackermann aus Böhmen*, ed. by G. Jungbluth (Heidelberg: Winter, 1969), cap. 7.

[87] See, for example, Israhel van Meckenem's etching 'The Bad Housewife'.

Family Ties

PREFACE TO SECTION

Shifting Horizons of Expectation: The Late Medieval Family

SYLVIA FEDERICO

As this section of the volume will show, the late medieval family functioned (or failed to function) in some surprisingly modern ways. The essays collected here remind us of the dangers of sentimentalizing the Middle Ages as a period during which family units were relatively uncomplicated, stable, and strong in comparison to our own times—but they also warn us away from the opposite impulse, that of demonizing the aristocratic medieval family as little more than an affect-less machine for the production of heirs. Taken as a whole, these essays productively assert that we would do better to see the late medieval family as a corporate unit, in two main senses of the term. First, the family acts as a sort of body; it is composed of separate and yet interconnected and interdependent parts, each with a role to play in sustaining the life of the organism. Secondly, the family is indeed a corporation, a complex but hierarchically structured entity which is affected by and responds to its social and economic circumstances. Between the eleventh and fifteenth centuries, and crossing the boundaries between Italy, Germany, France, and Britain, the family, these essays suggest, is not quite the old *familias* we might have expected; in its literary and archival representations, the family variously reflects and disrupts its contemporary contexts along with our own horizons of modern readerly expectations.

Matthew Howard's contribution, '"We are broderen": Fraternal Bonds and Familial Loyalty within the Fifteenth-Century Romance of *Generydes*', shows the surprisingly contingent applications of the law and of moral values in relation to definitions of brotherly ties. On the one hand, brotherhood entails of course an emotional bond; but Howard demonstrates that fraternal bonds quite frequently were inflected and influenced by social and economic relationships. While there exists 'a vision of unity and cooperation' about brotherhood, nevertheless it is also an affinity

which owes as much to its prevailing social, economic, and political environment as it does to the emotions of the brothers themselves. Working with the romance, but also with legal and ecclesiastical documents and texts, Howard shows how brotherhood compares epistemologically to such non-normative family ties as adultery and illegitimacy in the later medieval period. Although it is a bond which is essentially personal in nature, comprising such laudable attributes as loyalty, trust, and fidelity, it can nevertheless often be seen to interact with, and even have a negative impact upon, the environment in which it exists. Howard concludes by suggesting ways in which we can read the environment of literary texts as something more than a simple backdrop: in this instance, *Generydes* aligns the social with the emotional, endeavouring to idealize both, creating a picture of fraternal unity which relates not only to the personal relationship of the two brothers concerned but to the wider world as well.

The significance of brotherhood as one of the most important of familial ties is further explored by Nada Zečević, in 'Brotherly Love and Brotherly Service: On the Relationship between Carlo and Leonardo Tocco'. This essay demonstrates how the family is a political and economic body, designed to protect its own interests and to ward off competitors. The family — as evidenced in the ties between Carlo and Leonardo Tocco — is run rather like a business (or corporation), with specific strategies for making profit and for guarding against loss. In addition to the assumed emotional ties that bind brothers, here we see evidence of business decisions competing for — even dominating — emotional concerns. Carlo and Leonardo were unequal business partners, one could even say master and servant, whose financial transactions demonstrate payment and favour given for 'loyalty of service and not [because of] family affiliation'. Breaking with tradition (in terms of assigning his brother as executor of his will and naming his brother's son his heir), Carlo Tocco was more than an older brother to Leonardo, and 'neither can [their relationship] be said to have functioned as a harmonically organized co-regency or diarchy'. Brotherly service in this case was a pragmatic, even ruthless, strategy for success. Given the prominence of Italians in the development of early modern financial markets — and particularly the role of Italian bankers and private lenders — we would be wise to inquire further about the nature of family relationships such as the ones pointed out by Zečević: they are quite possibly of larger significance than has been recognized in playing a role in the famous transition from feudalism to capitalism that defines the gradual waning of the Middle Ages.

Relations between and among women and girls are likewise more historically significant than has been previously asserted. In particular, mother-daughter relationships are (paradoxically) both more important and less visible than others in the family unit, according to Maria Dorninger in 'Aspekte der Mutter und Tochter-Beziehung in der mittelhochdeutschen Epik'. This essay, which discusses literary representations of the relationship between mothers and daughters in Middle High German epic poetry, notes that these relationships are only afforded mention when the daughter reaches the age of marriageability. Feminine familial affiliations, which

carry with them the possibility of resistance to patriarchal institutional structures, are often only visible through the framing lens of those same structures. Thus the very nature of representational politics is thrown open for reconsideration: Dorninger identifies how mother-daughter relationships are not only 'cultural paradigms' in their own right, but further point both to social norms and to the possibility of change within those norms. In the aristocratic literature of the twelfth and thirteenth centuries, mothers and daughters act out a number of power dynamics that extend beyond the vertical, parallel kinship hierarchies traditionally associated with the late medieval family. The *Winsbeckin*, for instance, shows mother and daughter in a teacher-student relationship and also in a lord-vassal relationship. The significance of the interaction between these two thus transcends the limited realm of the emotional to reflect and perhaps comment on contemporary social structures. Such structures (which are political and economic rather than 'merely' domestic) are interrogated through the female characters' co-optation (and revision) of their scripted roles. As the theoretical framework of the essay suggests, however, the possibility for genuine resistance may be compromised by the very textuality that makes such relationships visible; nevertheless, as Dorninger concludes, there is 'a certain potential for power' within these mother-daughter alliances.

Tania Colwell, in 'Mélusine: Ideal Mother or Inimitable Monster?', further probes the significance of representations of maternal roles through a focus on the *Roman de Mélusine*. This nuanced essay deconstructs the binary of maternity/monstrosity, using medieval theories of both to gloss their mutually dependent (rather than mutually exclusive) status. Colwell shows how the monstrous Mélusine is depicted as a Marian figure in the *Roman*, including such aspects that typify Mary as an ideal mother: namely, her roles as nurse, teacher, sufferer, and intercessor or comforter/healer of others. The essay reminds us of how the maternal is implicated with the erotic in much medieval French literature, and shows how Mélusine would be perceived in this context 'as a secular, if admittedly ambivalent, imitator of the Marian model'. She is 'an ideal of (semi)human motherhood' even while she is, as part serpent, a hybrid monster. This paradox is less difficult to understand than it appears, however, as Colwell shows how monsters were understood as part of Nature and thus as necessary elements of God's world: Mélusine's hybridity in this context is understood as serving a mediating function between the earthly and divine worlds. Mélusine guides her husband towards a better knowledge of God and thus it is through her monstrosity that her ideal motherhood is manifested. Finally, in taking us outside the confines of the pages of the *Roman* itself, Colwell suggests some important factors for considering how the story was read and interpreted: the fact that Jean, duc de Berry, invoked Mélusine as a legendary ancestress in support of his claim to the estate of Lusignan in the 1390s indicates that monstrosity — rather surprisingly — is no bar to social advancement in the later medieval period.

Moving from a discussion of relations within a narrowly defined family unit to those that obtain in the context of extended relations, we see more evidence of the functioning of the medieval family as a corporate entity. Shona Kelly Wray, in

'Women, Family, and Inheritance in Bologna during the Black Death', offers a fascinating study that shows how the family — operating almost as a character in its own right, a personified identity — adapted to the challenges presented by the Black Death. Using the evidence of pre-plague and plague wills from 1348, Wray suggests that families shifted their inheritance patterns and customs in response to the disorder and difficulty brought on by the epidemic. Pointing out that 'the heavy mortality of the Black Death forced family members to alter their customary decisions about inheritance', Wray goes on to note, interestingly, that individuals did not neglect their family members when it came time to assign their goods: where we might in such a context expect an increase in gifts to religious houses for the benefit of the deceased's immortal soul, we find instead an expansion of the typical pool of candidates for inheritance. 'Women gained importance as heirs, [. . .] [and] other family members and more distant kin appeared as heirs for the first time.' Daughters and sisters particularly benefited from testators' expansion of choices of relatives as the 'general pattern of preference for male, agnate heirs' shifted during the Black Death. The family thus shows itself as a flexible and changeable entity in this context: able to bend the pre-existing pattern when need dictated, and able to transcend fixed understandings of gender equity as well. Wray suspects that traditional inheritance patterns soon returned following the crisis of the plague; if this is so, we must see the medieval family as a reactive unit — one that responded in fits and starts to discrete circumstances but just as easily reverted back to its normative practices — rather than as a unit understood in the evolutionary model, which gradually but inevitably moves toward the supposedly more enlightened customs and views of our own time.

Rob Lutton's 'Godparenthood, Kinship, and Piety in Tenterden, England 1449–1537', in turn, encourages us to revise our expectations regarding the role of medieval spirituality in the functioning of family life. The essay shows how godparenthood is more than a simple extender of family ties but is instead a dynamic category with multiple purposes and manifestations of both a spiritual and a social nature. The notion of spiritual kinship embodied by godparenthood is, as Lutton persuasively argues, one of hybridity itself — part family, part human, and part not. Such a bond does not amount to 'a type of fictive kinship, but a figurative one which is complementary to natural kinship'. Close collateral kin, for instance, were regularly chosen as godparents, and thus the nuclear family played an important role. And yet, Lutton points out, 'other links [. . .] were mapped onto more distant natural kinship bonds or created entirely new relationships'. Godparenthood, therefore, 'was subject to polyvalent application and interpretation'. Godparents functioned as economic, social, and spiritual advisors — helping their godchildren's marriage prospects, and thus easing their financial and domestic independence from their conjugal families and households. In this way, godparenthood was not entirely an extension of the conjugal family, as we might casually expect, but precisely the 'dissolution' of it: 'godparents took the part of anti- or co-parents'. The godparent relationship thus existed to redistribute 'resources from nuclear families at the end of their life cycles to those in

the process of formation. In this way spiritual kinship was just one of a number of conduits for the transmission of resources from one generation to the next which lay outside, and was complementary to, the formal domain of jural relations'. God-parenthood, while certainly a spiritual relationship, was especially a social and economic one: 'families belonging to certain social groups forged networks of reciprocal bonds as part of a self-conscious effort to protect and fashion identity, increase the stability of the social group, and further economic and political success.'

The evidence found in this group of remarkable essays suggests that we need to revise our expectations regarding the definition of the medieval family, its purposes and functions, and the manner in which these functions were carried out. The family is, on balance, a much more practical unit than some had assumed. On the other hand, the presumed sterile nature of many medieval family bonds has been shown to be largely a myth. In short, this collection of essays asks us to rethink some of our more cherished assumptions about the Middle Ages and richly rewards that effort.

'We are broderen': Fraternal Bonds and Familial Loyalty within the Fifteenth-Century Romance of *Generydes*

MATTHEW HOWARD

Brotherhood, as it exists between male children of the same family in a romance context, presupposes a strong sense of affinity between those so related. A vision of unity and cooperation underwrites all aspects of its fictionalized presentation which, to quote Richard Quinones, has at its core 'the dream of the human family, the pastoralism of the heart' and which 'can only be summarized in the unconscious innocence of siblings'.[1] However, to be a brother is not only to participate in a personal relationship, it is to encounter and reflect a social role, one which is bounded by the economic and political practices of its time and which, as history reveals, often represents a far less amicable vision of what it is or means to be a brother. It is the contention of this study that the portrayal of brotherhood in romance recognizes each of these expressions of fraternity, that the idealism of genre engages with both the personal and social aspects of the relationship, and that it is not until each has been taken into account that its role within any given text can be fully appreciated.

It is my intention, therefore, to consider familial brotherhood as it occurs in *Generydes* and argue that, whilst its status as a romance demands that a sense of personal affection is maintained at all times, it is physical distance rather than expressions of devotion which tends to typify the ongoing relationship between Generydes and his younger brother Ishmael. However, far from undermining their bond, this distance enables the text to address not only their personal relationship but also those issues of dynasty and socio-political empowerment which pertain to the familial environment of the later medieval period. For *Generydes* is a romance in which the passing

[1] Richard Quinones, *The Changes of Cain: Violence and the Lost Brother in Cain and Abel Literature* (Princeton: Princeton University Press, 1991), p. 3.

of the patrilineal inheritance plays a central role, which constructs fraternal bonds on the basis of shared lineage as well as personal affinity, and in which the marital fidelity of the father and the legitimacy of his heir thus have a significant part to play in establishing the cohesion of its narrative. This study will therefore offer a consideration of these themes. It will examine the two counts upon which Generydes could legally be challenged over the matter of his inheritance (his bastardy and the presumed adultery of his father) and argue that the mantle ceremony used by Richard II to legitimize the Beauforts in 1397 provides a vehicle by which these objections can be overcome. It will also consider the reaction of Ishmael to his diminished family role, arguing that, whilst his own position is made tenable through the negation of Auferius's adultery, his peaceable acceptance of his brother's newly discovered status is also within the bounds of contemporary social practice. In this way it will be asserted that a greater understanding can be reached of this text's ability to remain true to the demands of both romance and society in its presentation of the commonplace of brotherhood. However, what will also become apparent is the way in which genre and community are being conflated within the romance of *Generydes*, a process which not only requires that both be treated consistently but which also permits the idealism of the former to inform the pragmatism of the latter in this particular representation of the bond which exists between brothers.

Brothers, then, in the sense of 'the word applied to a male being to express his relationship to others [. . .] as the child of the same parents [. . .] the son of the same parents',[2] tend to have intriguing, if slightly elusive, relationships within romances of the fifteenth century. From the instinctive awareness of affinity in *Valentine and Orson* to the defence of fraternal honour by the brothers of Moradas and Burlonde,[3] the deployment of brotherhood in romance indicates that there is a bond between men which is not only of the strongest kind but which is also both everlasting and innate. It is a bond which is secure enough to inform the 'full grete joye' of Octavian and Florent when at last they meet after years of separation,[4] yet which does not require that any great act be committed in order to justify such emotion. Likewise it is a bond which is powerful enough to emphasize the plight of Robert of Cislye as he becomes transformed from a king to a fool, yet which allows his pleas for assistance to rely solely upon a reference to the relationship itself.[5] Brotherhood is thus a

[2] *OED*, II, 587.

[3] *Syr Tryamowre*, in *Of Love and Chivalry: An Anthology of Middle English Romance*, ed. by Jennifer Fellows (London: J. M. Dent, 1993), pp. 147–98 (lines 1324–1440).

[4] *Octavian*, ed. by Frances McSparran, EETS, OS, 289 (Oxford: Oxford University Press, 1986), p. 177 (line 1584).

[5] *Robert of Cislye*, in *Middle English Metrical Romances*, ed. by Walter Hoyt French and Charles Brockway Hale (New York: Western Prentice-Hall, 1997), pp. 931–46 (lines 273–98). To challenge his presumption that even God could not humble such a powerful king as himself, Robert of Cislye is transformed into the figure of a fool and an angel replaces him upon the throne. He appeals to his brothers for their help in restoring him to his rightful position, yet

relationship which is founded upon instinct, and it is precisely this instinct which is brought to the fore when it is first encountered in *Generydes*. For when Generydes initially recognizes his shared lineage with Ishmael, the scene which develops is credible only if one recalls the instinctive unity which ideally exists between such brothers within their generic setting. Generydes has been facing Ishmael in combat, both on the battlefield as part of an opposing force and, at this particular moment, in a single duel to the death. However, when he is finally able to view his opponent's face and realize 'that they were all of on lenage',[6] he immediately takes Ishmael in his 'armys twoo' declaring 'we are broderen [. . .] of on nature, / kyng auferius my fader is also' (*Generydes*, 2655–57), and this despite the fact that he had neither met him before nor, until this moment, been aware that he even had a brother. Such language, and such a transformation in behaviour, illustrates perfectly the unity and rapport implicit within the term 'brother', causing as it does a complete cessation of the enmity and accompanying violence of only moments earlier and replacing it with a sense of oneness and fraternal affiliation; so much so that when, moments later, they are forced to part, 'thanne ther was an hevy departeng / hough iche of them made to other mone' (*Generydes*, 2661–62).

It is noticeable, however, that despite such instantaneous affinity being the highlight of their newly discovered relationship, and despite Generydes' parting words that 'here after I shall make yow better chere' (*Generydes*, 2660), the pair are never again brought together as the remaining narrative unfolds. In fact they are spoken of as brothers on only two further occasions, once in connection with the inheritance plans of their father and again, towards the end of the romance, in the guest list of Generydes' wedding. On neither occasion is any further detail supplied concerning their ongoing personal association, and as a consequence the term 'brother' is left hanging, as the sole measure both of their interdependency as siblings and as co-heirs to Auferius and also, on a more intimate level, of their mutual feelings towards one another. It is, of course, possible that such an omission simply stems from deficiencies which are present within the narrative itself and which have been used in the past by critics to question its style and sense of cohesion.[7] However, it could equally,

---

despite the fact that he 'criyede with ful egre speche / To his bretheren to don him wreche' they neither recognize him nor consider his claim seriously. Thus his helplessness is underlined, via the implication that if his brothers, those whom he should be most able to depend upon, fail him then who is there on earth who can come to his aid? This realized, Robert is soon restored to his royal status, albeit with a more humble attitude towards God.

[6] *Generydes*, ed. by W. Aldis Wright, EETS, OS, 55–70 (London: N. Trübner, 1878), p. 84 (line 2639). All subsequent citations refer to line numbers in this edition, are based upon Cambridge, Trinity College MS Gale O. 5. 2, and appear in parenthesis in the text.

[7] See Lillian H. Hornstein, '*Generydes*', in *Manual of Writings in Middle English 1050–1500*, ed. by J. Burke-Severs and others, 10 vols (New Haven: Connecticut Academy of Arts and Sciences, 1967–), I: *Romances*, pp. 148–49 (p. 149), in which a 'confusion of names and places' is cited, a feature also remarked upon by Laura Hibbard who notes that 'the author had

and perhaps more plausibly given the apparent popularity of *Generydes* during the period in question,[8] stem from the socio-economic practices of brotherhood as they existed within fifteenth-century family life. For when it is disclosed as to why Auferius sends a ship's captain to discover the whereabouts of Generydes, certain conditions relating to heritage and the role of the firstborn within the family become established which it is important not to overlook when considering the relationship Generydes has with his brother.

The reason for the captain's search is fairly straightforward inasmuch as it centres upon issues pertaining to heredity and dynastic succession. Having 'come fro Surre and fro those partis' which 'Kyng Auferius hath [. . .] in mariage', it had previously been the captain's role to join forces with a hundred ships which 'toward ynd they purpose them to goo, / To wynne kyng auferius right ageyn' (*Generydes*, 4128–29, 4133–34). However, a complication exists in that,

> After deceasse of auferius the kyng,
> He [Generydes] shall haue Surre in his own demeyn,
> And all the Reme of ynd withoute feyning,
> If fortune will that he it gete ayeyn. (*Generydes*, 4145–48)

If the stress which is placed upon issues of inheritance at this point is taken as a genuine indication of the reasons for Auferius's attempt to reclaim India (and there is no other evidence within the text to suggest otherwise), then it is not simply for purposes of material gain or revenge that Auferius is seeking to regain his lost throne. Rather it is issues of dynasty and of lineage, of being able to pass on to his son what was passed on to him by his father, which motivate his efforts and which, as a consequence, also involve Generydes as the sole individual with an interest in their successful completion. For, as the eldest son of King Auferius, Generydes stands, under the principles pertaining to primogeniture, the first in line to inherit his lands and dominions, providing of course that in this instance he (and by the use of 'he' in line 4148 it can be taken to mean that the onus of responsibility falls directly upon Generydes himself) is able to reclaim that which had previously been lost to his father.

The dominant principle behind much of medieval thinking on inheritance, the practice of male primogeniture, or **'**the right of succession or inheritance belonging

---

a passion for both personal and geographical names but it does not appear that there was much lore behind his usage' (*Medieval Romance in England*, Burt Franklin Bibliographical and Reference Series, 17 (New York: Burt Franklin, 1960), p. 232). See also Derek Pearsall, 'The Assembly of Ladies and *Generydes*', *Review of English Studies*, n.s., 12 (1961), 229–37, where it is remarked that 'the author of G[enerydes] not only blurs the narrative line by omitting essential details [. . .] but also blunts the sharp impact of the homely, the odd, the casually precise by enveloping the whole in a haze of urbane abstraction' (p. 236).

[8] See Carol M. Meale, 'The Morgan Library Copy of *Generides*', in *Romance in Medieval England*, ed. by Maldwyn Mills, Jennifer Fellows, and Carol M. Meale (Cambridge: Brewer, 1991), pp. 89–104.

to the first born',[9] essentially centred upon what Kate Mertes refers to as the desire to preserve 'a single line of a family at the expense of "extra" children'.[10] In a period in which the establishment of dynasty had come to dominate the instincts of those at the very highest levels of society,[11] primogeniture was viewed as the primary means by which land, title, and the influence they provided could survive intact from generation to generation. Fathers were thus influenced by the belief that they were to 'lawe wole þat þe eldest sone haue þe more [partye] of heritage',[12] and it is not entirely suprising, therefore, that this is the main principle upon which Auferius's legacy is based. Generydes, as the eldest son, is set to inherit his father's original kingdom of India together with Syria, the kingdom his mother inherited from her father and which Auferius, as her husband, was subsequently elected to rule. In contrast, Ishmael, we are told, has already been given 'the Reme of Trace' (*Generydes*, 4139), an 'Erlys lande' (*Generydes*, 1063) which was not originally part of the family heritage on either his mother's or his father's side but which instead came under the elected governance of Auferius following his ignominious flight from India. Such is the nature of the bequest made to the younger son, one which, it might be noted, is not only in keeping with the concept of primogeniture in that it is made prior to the death of the father,[13] but which also complies with the prevailing belief that 'to leave any son unprovided for was a sign of failure'.[14]

---

[9] *OED*, XII, 487.

[10] Kate Mertes, 'Aristocracy', in *Fifteenth-Century Attitudes: Perceptions of Society in Late Medieval England*, ed. by Rosemary Horrox (Cambridge: Cambridge University Press, 1994), pp. 42–60 (p. 46).

[11] See R. A. Griffiths, 'The Sense of Dynasty in the Reign of Henry VI', in *Patronage, Pedigree and Power in Later Medieval England*, ed. by Charles Ross (Stroud: Alan Sutton, 1979), pp. 13–36, which examines the contemporary 'conscious awareness of the importance of royal lineage and of the need to maintain and protect it, both for reasons of stability and because God-given qualities ought of themselves to be preserved' (p. 15).

[12] *On the Properties of Things: John Trevisa's Translation of Bartholomaeus Anglicus 'De proprietatibus rerum'*, ed. by M. C. Seymour, 3 vols (Oxford: Clarendon Press, 1988), I, 311. It should be noted that the above argument is not intended to claim that male primogeniture was the only means by which families bequeathed their assets. Instead it is more correct to say that it remained fundamental to the formation of most inheritance practices as they became established across the medieval period, creating not only those principles which relate to its correct observance but also other practices, such as entailing and jointure, which were intended to evade its authority.

[13] As McFarlane notes, under the terms of primogeniture 'when a landowner died his heir inherited', and therefore 'if he wanted to benefit his younger children he had to do it in his own lifetime' (K. B. McFarlane, *The Nobility of Later Medieval England: The Ford Lectures for 1953 and Related Studies* (Oxford: Clarendon Press, 1973), p. 63).

[14] Ibid., p. 71.

This, then, is the socio-economic framework upon which the relationship between Generydes and Ishmael is built. It is a framework which exists in addition to their sense of personal affinity and which causes attention to fall upon their respective statuses within the family. However it is also a framework which might be questioned as to its accuracy, for in respect of the text's championing of primogeniture one might initially argue that its identification of the firstborn is curious. Certainly it is beyond doubt that Generydes is the older of the two brothers; the text leaves no room for ambiguity there, nor does it on the issue of Auferius's paternal status. However, the fact that he was born not only out of wedlock but also as the result of an apparently adulterous liaison does seem to cast doubt upon the nature of his legitimacy, and as Joel Rosenthal points out, 'though illegitimate children were frequently acknowledged, [. . .] even with support they would not expect to inherit land if other claimants were around to challenge them'.[15]

Significantly, however, Ishmael does not mount a challenge in respect of Generydes' superior position, possibly because this would be extraneous to the narrative the author wishes to construct but possibly also because Generydes, by fifteenth-century understanding, retains a potential for legitimacy which is validated by both legal and political practice. For although born out of wedlock, he is the offspring of two people who later marry and thus could potentially be classed as a mantle-child, that is, a child recognized as being born prior to his parents' marriage but who was later legitimized by their subsequent union. Consider, in this regard, the following brief case study, one cited not as a possible source for the actual events of the romance but rather as an illustration of the potential for legitimization which could conceivably exist in the minds of a fifteenth-century readership.

> More fortunate were the Beauforts, the most celebrated mantle-children in English history. At their official legitimation in the parliament of 1397, a year after John of Gaunt's marriage to Katherine Swynford, the actual mantle ceremony was apparently performed, all four children, by now adults, being placed under the care cloth with their parents in parliament (although strictly speaking they were not what the church thought of as mantle-children, having been born in adultery). Richard II legitimated them in fulsome terms, pointing out that they were 'sprung from royal stock', and declaring them fully heritable at law. The Beauforts were exceptional, for they had royal blood in their veins.[16]

Whilst the practice of legitimizing through the use of the care cloth was not held to be part of common law, and had indeed been rejected as such by the royal council of Merton in 1236, it still remained a part of canon law, and so an elder brother born out of wedlock and a younger brother born in wedlock were 'in the eyes of the

[15] Joel Rosenthal, *Nobles and the Noble Life 1295–1500*, Historical Problems: Studies and Documents, 25 (London: George Allen and Unwin, 1976), p. 65.

[16] Chris Given-Wilson and Alice Curteis, *The Royal Bastards of Medieval England* (London: Routledge and Kegan Paul, 1984), p. 49.

church [. . .] the equally legitimate children of their parents'.[17] Even an adulterous conception, it would appear, need not stand in the way of attaining the status of legitimate heir, especially when the individuals concerned are of royal descent and the king himself is in agreement. Thus, although the text itself makes no mention of any such ceremony being performed, the potential certainly exists for Generydes to be considered as the legitimate elder brother of Ishmael and, as such, the rightful inheritor, and therefore guardian, of the family's fortune.

Of course, to try to substantiate such a claim based upon medieval law is to tread the same fine line of demarcation which faced the legal authorities of the day. For whilst the ecclesiastical courts held authority on the subject of legitimacy,[18] on matters pertaining to inheritance it was the secular courts which remained dominant, a situation which created no little difficulty given their divergence as to whether or not a bastard could later be made legitimate.[19] As F. W. Maitland comments, 'the attempt to draw an unwavering line between "spiritual" and "temporal" affairs is hopeless',[20] and indeed so too it proved in this instance. For despite there being a compromise solution put forward whereby bishops were asked not to confirm the legitimacy of an individual per se but to ascertain whether a child had been born prior to the marriage of its parents, the fact that the two sides were divergent upon the very spirit of the issue led to there never being more than an uneasy truce existing between the two sides, with, as William Pantin puts it, 'conscientious bishops' often refusing to answer such a question on the basis that 'their answer would be used in a sense contrary to canon law'.[21] Thus it is by no means the intention here to

[17] Ibid., p. 45.

[18] See Coram Rege Roll, no. 292 (Easter 1333), m.121, in *Select Cases in the Court of King's Bench under Edward III*, ed. by G. O. Sayles, Publications of the Selden Society, 76 (London: Quaritch, 1957), pp. 74–75, where, in the case between John and William Huberd over William's alleged bastardy, the intervention of the Archbishop of York is requested 'because the cognizance of such cases belongs to the ecclesiastical court'. See also 18 Edward III Stat.3.c.2, in *Statutes of the Realm*, 11 vols in 12 (1810–28; repr. London: Dawsons, 1963), I, 302, where it is noted that, in the case of bigamy, 'the Justices shall not have the Cognisance or Power to try the Bigamy by Inquest, or in other manner, but it shall be sent to the Spiritual Court, *as hath been done in times past in case of Bastardy*' (my emphasis).

[19] See 20 Henry III Stat. Merton c.9, in *Statutes of the Realm*, I, 4 which records the split over whether a bastard could be legitimated through the later union of its parents, with, on one side, the upholders of the 'Laws of the Realm' refusing to recognize any such future legitimation, and on the other, the bishops contending that 'all such as were born afore matrimony should be legitimate, as well as they that be born within matrimony, as to the succession of inheritance'.

[20] F. W. Maitland, *Roman Canon Law in the Church of England: Six Essays* (London: Methuen, 1898), p. 56.

[21] William Pantin, 'Grosseteste's Relations with the Papacy and the Crown', in *Robert Grosseteste: Scholar and Bishop*, ed. by D. A. Callus (Oxford: Clarendon Press, 1969), pp. 178–215 (p. 204).

draw out a particular point of medieval law and make it stand up as if it were a textbook example. Instead, the above example is given with a view to revealing the extent to which that self-same area of law had leave to operate within the socio-political environment of the day, not to mention the degree to which it was able to accommodate the wishes of its ruling elite.

There still remains a problem though if we are to apply the principle of the mantle ceremony to the issue of Generydes' legitimacy. For not only was he conceived prior to the marriage of his parents, he was the result of an apparently unfaithful union, and despite the church being an advocate of the rights of the illegitimate, it was not quite so understanding towards those who were conceived in adultery.[22] However, for Generydes it is possible to claim a degree of legitimacy which is even more secure than that of the Beauforts. For whilst they were reliant upon royal patronage to overcome the church's disapproval, Generydes can argue, with some degree of justification, that his father is not, in fact, an adulterer.

In order to examine this further, consider the events which lead to the conception of Generydes. Auferius, king of India and husband of Queen Serenydes, gets lost whilst out hunting and is led by the hart he is chasing to a small house in the woods. There he is greeted by its two inhabitants, an old man who is 'of vij Saugys callid the wysest / That was in Rome' (*Generydes*, 88–89) and a 'fayre mayde' (*Generydes*, 63) who is subsequently revealed to be Serenye, daughter of the King of Syria. It is she who informs him of the destiny that awaits him, that their meeting had been foretold by the old man himself, and that, concerning its outcome, 'This nyght ther shall be goten betwix vs twayne / A child that shall do mervelys in his dayes' (*Generydes*, 108–09). Needless to say it does not take long before such a prophecy is brought to fruition, for after supper they retire to bed where 'she with hym layde in armys right' (*Generydes*, 151) and where, following a certain amount of pleasure which the reader is called upon to imagine, 'ther was a child goten' (*Generydes*, 157).

Thus Generydes is conceived, but not before Auferius has been made aware of certain information relating to his own marriage to Serenydes. For as Serenye reveals to him prior to their moment of intimacy, concerning the events which are to follow,

> Yet most ye knowe a thynge that is be hynd,
> Touchyng the quene, whiche is to yow vnkynd
> And vtterly ontrew in euery thyng;
> She and the Stiward bothe of on assent,
> With ther sotilte and false Imageninge,
> Yow to distroye that is ther hoole entente,
> ffor she is hoole at his commaund[e]ment. (*Generydes*, 118–24)

[22] See, in particular, R. W. Southern, *Robert Grosseteste: The Growth of a European Mind* (Oxford: Clarendon Press, 1986), p. 253, which records the theological principle to be such that 'those who were born out of wedlock became legitimate by the subsequent marriage of their parents, unless they had been born as a result of adultery'.

It is thus the queen who is first acknowledged to be guilty of adultery. She has been involved in an act of infidelity which not only predates that of Auferius but which is compounded by allegations of treason as she is revealed to have been plotting against both the king and his crown.[23] And when one takes into account the serious nature of these charges, together with the timing of Auferius's knowledge of them, one can begin to understand how it is that, at the moment of his alleged infidelity, he may have had reason to view his marriage as being over; not simply as being concluded but rather, as Curteis and Given-Wilson put it in their appraisal of medieval divorce law, 'erased from the history books as if it had never occurred'.[24]

Of course, it must be acknowledged that despite adultery being, in the eyes of the Church, the most significant transgression that could be committed within the context of a medieval marriage,[25] its citation during the later Middle Ages would usually only have been sufficient to obtain divorce *a mensa et thoro*, that is, divorce from bed and board. This, as R. H. Helmholz has pointed out, would not have been sufficient to break the bond between man and wife entirely as it would not have allowed them to remarry. Instead it would only have allowed a couple to live apart, a position which once again appears to count against the mantle ceremony being applicable in the case of Auferius's later marriage to Serenye.[26] Instead, if the above argument is to be sustained, grounds need to be established by which the divorce which might be granted to Auferius is that which Helmholz refers to as *cause divorcii seu nullitatis matrimonii*,[27] a scenario which in this instance would not only absolve the couple from any immediate sexual wrongdoing but which would also permit their later marriage to one another. For it is important to recognize that, in the context of this

[23] See Isobel D. Thornley, 'Treason by Words in the Fifteenth Century', *English Historical Review*, 32 (1917), 556–60; and J. G. Bellamy, *The Law of Treason in England in the Latter Middle Ages* (Cambridge: Cambridge University Press, 1970), pp. 116–20, for examples which testify that, during the fifteenth century, to plot against the monarch by word of mouth was sufficient to merit the charge of treason.

[24] Given-Wilson and Curteis, *Royal Bastards of Medieval England*, p. 32.

[25] Matthew 19. 6–10. See also Peter Fleming, *Family and Household in Medieval England* (Basingstoke: Palgrave, 2001), p. 80. For a definition of adultery as it was perceived during the Middle Ages, see James A. Brundage, *Law, Sex, and Christian Society in Medieval Europe* (Chicago: The University of Chicago Press, 1987), pp. 385–89, and in particular p. 386 where it is noted that, 'canonists by 1190 had largely abandoned the earlier practice of using 'adultery' to designate any type of sexual misdemeanour and reserved the term to describe sexual intercourse by a married person with anyone other than the spouse'. However, as Brundage also points out, whilst adultery was primarily seen as being a crime against the body, it could, like fornication, be committed in the mind (p. 385).

[26] R. H. Helmholz, *Marriage Litigation in Medieval England* (Cambridge: Cambridge University Press, 1974), p. 74. See also Fleming, *Family and Household*, p. 80, which notes that in cases of divorce *a mensa et thoro*, 'couples separated in this way were not free to remarry'.

[27] Helmholz, *Marriage Litigation*, p. 74, n. 1.

more permanent aspect of their relationship, it is not only Generydes who is affected by the charge of adultery against his father, but Ishmael too must be considered a bastard if his father's first marriage to Serenydes is not annulled.[28]

In order to examine this further it is necessary to take into account both the act of adultery itself and also the treasonous plotting which appears alongside it. Unfortunately, and despite extensive research, there appears to be no case on record in which the charge of treason has been used specifically to secure a marital annulment, possibly because the usual focus of a conviction for treason is the person who is sentenced to death rather than the relationship which is being dissolved.[29] However, even within those cases which are available concerning 'strained' marital relations, evidence can still be ascertained as to the effect a conviction for treason might have upon the ongoing status of its perpetrator, and in this regard one might consider the following two examples in which a charge of treason is made against a wife in connection with the death of her husband.[30] The first is that of Agnes Ferthing who, in 1380, was accused of the murder of her husband, Robert, an act in which she was said to have been assisted by Robert's own servant, John. As the court rolls reveal, whilst John pleaded guilty and was sentenced to be drawn and hanged, Agnes denied any involvement in the offence and opted to be tried by jury. However, this proved to be only a temporary stay of execution, for when the jury was 'chosen, tried and sworn for this purpose, they sa[id] on their oath that Agnes is guilty of the aforesaid felony and treason', and sentenced her to death by burning.[31] However, it is the final line of the account which is of most relevance here, for in an age in which a bride was legally 'promised a one-third share of her husband's property in the case of widowhood',[32]

[28] In Ishmael's case there is an additional problem stemming from his father's second marriage in that if his first marriage is not annulled then he is the result of a bigamous union. On the degree to which true bigamy was frowned upon by both secular and church authorities alike, see Brundage, *Law, Sex, and Christian Society*, pp. 447–49, and in particular p. 540 where it is noted that 'at Reggio Emilia, bigamy was made a capital crime if the second marriage was consummated [and] at Belluno the bigamist who failed to pay his £200 fine within a month could be castrated'.

[29] See Bellamy, *The Law of Treason*, pp. 138–76.

[30] See 25 Edward III Stat.5.c.2 in *Statutes of the Realm*, I, 320, which notes that treason not only applies to someone who 'doth compass or imagine the Death of our Lord the King' but also to the occasion upon which 'a servant slayeth his master, or a wife her husband'.

[31] Coram Rege Roll, no. 476 (Hilary 1380), m.19, in *Select Cases in the Court of King's Bench under Richard II, Henry IV and Henry V*, ed. by G. O. Sayles, Publications of the Selden Society, 88 (London: Quaritch, 1971), p. 14.

[32] Frances Gies and Joseph Gies, *Marriage and Family in the Middle Ages* (New York: Harper and Row, 1987), p. 190. See also 25 Edward I Magna Carta c.7, in *Statutes of the Realm*, I, 115, which notes that, in the case of a widow, 'for her Dower shall be assigned unto her the third part of all the Lands of her Husband, which were his [. . .] except she were endowed of less at the Church-door'.

Agnes, despite being the wife of a man able to support his own servant, is noted as having 'no goods or chattels, lands or tenements'.[33]

Were this to be a single occurrence it could, of course, be construed as a comment whose relevance is more to the economic and social plight of women, even under the auspices of the law, than one related to issues of marital culpability. However, consider also the case of Elizabeth Walton, a woman who, in 1388, stood accused of giving 'consent and aid to the slaying of [. . .] Andrew, her husband'.[34] On this occasion both she and her co-defendants, Andrew's servants John Ball and Robert Blake, all swore to their innocence and were tried before a jury before being found guilty. However, once again the comment is passed that 'the said Elizabeth has no chattels', but this time with the codicil that this is because 'the said jurors say that they do not believe that the said Elizabeth ought by law of the land to have any chattels at the time of the death of the aforesaid Andrew, her husband, and with this they say that no chattels accrued to the said Elizabeth after the death of Andrew'.[35]

Thus it might be surmised that both women have been denied any property rights they might otherwise have had owing to the part they played in the plot against their husbands. In each instance the conviction of treason has led to the woman having been distanced from her husband to the point that her very status as a widow, and thus her marital status as a whole, has effectively been negated. In the same way, therefore, it might be argued that the accusation of treason made against Serenydes is also sufficient to negate her marriage to Auferius in such a way as would allow his liaison with Serenye. For when one takes into account the nature of her crimes then it is not such an interpretative leap which is required in order to dismiss the concept of adultery in favour of the notion of annulment, particularly when that leap occurs within the fictionalized environs of romance.

This, then, is the argument which relieves Generydes of any legal challenge which might be made concerning the legitimacy of his birth and which also legitimizes his brother. Both can participate in their father's inheritance plans without fear of legal challenge as both can be considered as being the legitimate sons of Auferius; one through the process of divorce and marital annulment and the other through the mantle ceremony itself. However, this alone is not sufficient to account for all aspects of their relationship within the text. For whilst it has been established on a legitimate footing and thus might be seen as a plausible account of late medieval brotherhood, it might be remarked of Ishmael's behaviour in response to his brother's newly acquired position that it appears in marked contrast to the often far more volatile responses of those embroiled in similar issues of heritage and dynastic succession. Examples such as the quarrels between Edward IV and the Dukes of Clarence and Gloucester over the Warwick inheritance or the dispute between Sir William

[33] *Select Cases* [. . .] *Richard II, Henry IV and Henry V*, ed. by Sayles, p. 14.

[34] Coram Rege Roll, no. 508 (Easter 1388), m.4, in ibid., pp. 54–56 (p. 55).

[35] Ibid., p. 55.

Gascoign and his younger brother Marmaduke amply testify to the fact that 'with[in such] a system of non-divisible inheritance, brothers [. . .] were seldom natural allies in the defence of territory and position'.[36] Instead, faced with a system which actively encouraged a hierarchy of siblings, rivalries became exacerbated, economics took precedence over emotion, and, although Trevor-Roper's view that 'in reality the family was not cultivated as such; it was a necessary alliance from which every man hoped individually to profit'[37] is perhaps rather extreme, it is not necessary to delve too deeply into the recorded social history of the fifteenth century before being able to agree with Joel Rosenthal that 'brothers [. . .] were rarely linked, in life and death, in pursuit of the common patrilineal enterprise and its attendant ideology'.[38]

Rosenthal's comment, however, provides the basis upon which a link might be forged between Ishmael as a character in a romance and the role of brother in fifteenth-century society. For as Rosenthal goes on to consider with regard to medieval siblings generally,

> If we should not infer hostility, we should also be reluctant to make an *a priori* assumption about equality or co-operation. 'Different roads' was probably the route most often chosen.[39]

The research conducted by Rosenthal into fifteenth-century patterns of inheritance leads him to conclude that separation or distance was the principle feature of relationships between brothers during that period, a conclusion derived mainly from the fact that in only 4% of his surveyed examples were familial brothers directly linked through the passing of the primogenital inheritance.[40] Thus, whilst it is tempting to speculate upon the hostile nature of relations between family members, everyday practice often fell someway short of what would otherwise be a rather depressing picture of general social behaviour. Instead it appears that, whilst the eldest child remained attached to the lineal family through his responsibility for its continuation, any younger sons were free to make their own way in the world, a way that would endeavour to include a good marriage and thereby achieve a retention of

---

[36] Kate Mertes, *The English Noble Household, 1250–1600: Good Governance and Politic Rule* (Oxford: Basil Blackwell, 1988), p. 165. For the examples cited, see M. A. Hicks, 'Descent, Partition and Extinction: The "Warwick Inheritance"', *Bulletin of the Institute of Historical Research*, 52 (1979), 116–28; Charles Ross, *Edward IV* (London: Book Club Associates, 1975), pp. 187–93; and, in the case of the Gascoign's, Emma Hawkes, 'Younger Sons, Illegitimate Sons and the Law: A Study of Three Yorkshire Gentry Families, 1480–1540', *Parergon*, 17 (1999), 125–46 (pp. 138–39).

[37] Hugh R. Trevor-Roper, *Historical Essays* (New York: Harper and Row, 1966), p. 31.

[38] Joel Rosenthal, *Patriarchy and Families of Privilege in Fifteenth-Century England* (Philadelphia: University of Pennsylvania Press, 1991), p. 111.

[39] Ibid.

[40] Ibid.

social status but a way that would also create a distance between themselves and their older brothers.[41]

Thus it is distance which is the more common scenario as far as relations between brothers are concerned, the same as it is distance which was earlier seen to epitomize the relationship between Generydes and Ishmael. However, not only is distance more common, it is also symptomatic of the more successful of those relationships identified by Rosenthal, a distinction which it is crucial to understand if we are to appreciate fully the treatment which brotherhood receives in *Generydes*. For it is the separation of the two brothers which ultimately allows this particular romance its idealism, in both its representation of a social ideal and its portrayal of one based in genre. On the one hand, the fact that Generydes and Ishmael remain apart is the single most important feature in establishing their relationship socially. Ishmael's omission from the ongoing events of the narrative, from the attempts to regain the family heritage and from his brother's various times of trial, stems not from any absence of loyalty or from a text which is lacking in cohesion. Instead it occurs through a need to conform positively with both social and economic practice and yet to do so in a credible manner; to show Ishmael as remaining loyal to his family by not challenging its patterns of inheritance rather than through any active affirmation of support. On the other hand, it is this same sense of separation which is able to establish the relationship in terms of its expression of genre; serving as the necessary prerequisite for a bond which is both innate and everlasting. For while brothers in romance may not meet, their bond can never be broken. Instead it must remain as a permanent assertion of mutual affinity, one which might occasionally be the subject of transgression but which can never, ultimately, cease to be.[42] In creating such a distance, therefore, what this text does is utilize the romance ideal in its expression of a social norm. It outlines separation as the means by which brothers might be able to coexist peaceably, while at the same time informing that separation with a sense

[41] See also Hawkes, 'Younger Sons, Illegitimate Sons and the Law', p. 130, and her consideration of Richard Plumpton, an individual who, despite being closely related to one of the wealthiest families in Yorkshire, 'lived in conspicuous poverty' as a direct result of the observance of the laws of primogeniture. As she goes on to note, such was his distance from the central branch of the family that 'his claim to gentility was a tenuous one — he left only eight acres of lands in his will and was scarcely a landed gentleman'.

[42] This is not meant to imply, however, that the bond of brotherhood in romance is always acted upon positively, merely that it is always underwritten by those positive connotations which were outlined at the start of this study. For example, when Gamelyn finally overcomes his traitorous brother John and allows him to be hanged despite his despairing plea 'Lord I crie þe mercy, broþer art þou myn' (*Gamelyn*, in *Middle English Metrical Romances*, ed. by French and Hale, pp. 207–35 (line 874)), it is not to be seen as a denial of the fundamental principles of brotherly devotion and allegiance. Instead it is to be seen as a reaction to the breaking of those principles, with the more correctly observed relationship between Gamelyn and Sir Ote ultimately proving triumphant over a flawed relationship based upon deceit and betrayal.

of endless affinity, the same sense which makes the initial meeting between Generydes and Ishmael plausible and which never stops informing their relationship.

This, then, is arguably the main achievement of *Generydes*, a text in which brothers might be said to live in harmony, so long as they live apart. In terms of the structure of the romance it is not until the legal, social, and economic practices associated with brotherhood are placed alongside those of a more emotive nature that the text can be revealed as being consistent, thus allowing it a degree of authority more in keeping with its presumed popularity than has often been considered in the past. Generydes is the legitimate elder son of Auferius, and Ishmael has no challenge to make in respect of this, a fact which permits his absence from the text and from those events which centre upon inheritance. However, it does not necessarily explain his absence completely, for brother can challenge brother even without a justifiable recourse to the law. Instead for this we need to turn to the notion of idealism in brotherhood and to the concept of distance as the norm. For while it is distance, both physical and emotional, which expresses the social ideal of brotherhood, it also permits the romance ideal its expression, a duality of function which begins to explain the way the relationship is constructed in *Generydes*. For brotherhood in *Generydes* is the representation of an ideal, one which is as realistic as it is positive and which is underwritten with a sense of the permanent. And it is the distance between Generydes and Ishmael which allows this ideal to exist, an ideal which, in this particular instance, might be said to be as practical in observance as it is positive in outlook.

Brotherly Love and Brotherly Service: On the Relationship between Carlo and Leonardo Tocco*

NADA ZEČEVIĆ

᾽Ελέγχετο ἡ καρδίτζα του νὰ ἰδῇ τὸν ἀδελφόν του.
Ξένην ἀγάπην εἶχασιν ὁ ἕνας εἰς τὸν ἄλλον.
᾽Απ᾽ τὴν μίαν ἄκρην τοῦ οὐρανοῦ ἕως τὴν ἄλλην ἄκρην
δύο ἀφέντες ἀδελφοὶ δὲν εἶχαν πλέαν ἀγάπην
[ἀπὸ] τὴν εἶχασιν αὐτοί, οἱ δύο αὐταδέλφοι.[1]

This is how the anonymous *Cronaca dei Tocco di Cefalonia*, a local Greek narrative in verse of the first half of the fifteenth century, describes the feelings of Leonardo Tocco before the reunion with his brother Carlo immediately after their conquest of the western Greek city of Arta in 1416.[2] In this essay,

* This paper is a supplemented version of a paper read at the International Medieval Congress, Leeds, 2001. The supplements have been based upon my recent research during the Winter 2001–02. I am most grateful to John Harbord, director of the Language Teaching Centre at the Central European University in Budapest, and to Isabel Davis of the Centre for Medieval Studies at the University of York for their kind help with the English version of this text.

[1] *Cronaca dei Tocco di Cefalonia di Anonimo*, ed. and trans. into Italian by Giuseppe Schirò (Rome: Accademia nazzionale de Lincei, 1975) (henceforth: *CroToc*), book 10, chapter 20, verses 3010–14, p. 442: 'His heart yearned to see his brother / [for] they shared a rare love for one another / from one end of the sky to the other / no two lord brothers had [such] perfect love for one another / as that [love] which the two brothers had [for each other]'.

[2] Giuseppe Schirò, 'Prolegomen II', in *CroToc*, pp. 137–39, considers the chronicle as an autograph text which must have been written before 1429. His chronology has been adopted by Donald Nicol, *The Despotate of Epirus 1267–1479* (Cambridge: Cambridge University Press, 1984), p. 165. The chronicle has been considered differently by Elisabeth A. Zachariadou, 'Οἱ χίλιοι στοίχοι στὴν ἀρχὴ τοῦ Χρονικοῦ τῶν Τόκκο', *Ἠπειρωτικά χρόνικα*,

the fraternal affection of the Tocco brothers will be re-examined in the context of their political relationship. I shall argue that the terminology of brotherhood structured what was also a reciprocal service bond.

Leonardo (b. *c*. 1376, d. *c*. 1418) and his elder brother Carlo (b. *c*. 1375, d. 1429) were the sons of Leonardo I Tocco, an Italian governor of the Greek Ionian islands on behalf of the Angevins of Naples.[3] After the death of his father in 1375, the elder Carlo continued to develop the Tocco aspirations towards the region of the western Greek mainland and the Peloponnese. In 1411, he became the master of Ioannina, one of the most important cities in Epirus; a few years later, in 1416, he acquired Arta, the ancient capital of this region.[4] The possession of Epirus facilitated the legitimate entrance of Carlo Tocco into the Byzantine sphere of power. In 1415, the Byzantine emperor bestowed upon him the title of Despot.[5] In modern scholarship, the government of Carlo Tocco, like those of other western masters in fourteenth- and fifteenth-century Greece, has been characterized as a 'pragmatic' approach to the politics of the region.[6]

The especially strong brotherly emotions between the Tocco were similarly described in several other passages of the family chronicle.[7] Their tight brotherly bonds dominate their story in contrast to the preoccupation with litigation and plots mentioned in relation to other prominent regional family groups.[8] The modern historian

25 (1983), 158–81, as a work by several authors, continuously expanded until the mid-fifteenth century.

[3] Giuseppe Schirò, 'Prolegomen I', in *CroToc*, pp. 11–12 and p. 26. See Schirò, 'Prolegomen I', pp. 83–85, on the chronology of their births and deaths. The growing independence of the Tocco branch in Greece which followed the death of Philip of Taranto in 1373 was noticed several centuries ago by Scipione Mazzella, *Descrittione del Regno di Napoli* (Naples: Capello, 1601; repr. Bologna: Forni, 1970), p. 645. This opinion can also be found in the present-day work of Valeria Del Vasto, *Baroni nel tempo: i Tocco di Montemilleto dal XVI al XVIII secolo* (Naples: Edizioni scientificale italiane, 1995), p. 16.

[4] From the verse of *CroToc*, 10, 5, 3113, p. 450, in which Ioannina was considered the 'root of the Greeks' (ρίζα τῶν Ρωμαίων), as well as from the fact that the despotic crowning of Carlo I Tocco took place in Ioannina and not in Arta, it can be concluded that the former city was perceived as more important during first decades of the fifteenth century.

[5] Giuseppe Schirò, 'Manuele II Paleologo incoronà Carlo Tocco Despota di Gianina', *Byzantion*, 29–30 (1959–60), 209–30. Božidar Ferjančić, *Despoti u Vizantiji i južnoslovenskim zemljama* (Despots in Byzantium and South-Slavic lands) (Belgrade: SANU, 1960), p. 84, has noted the problem of the factual significance of Carlo's despotic title.

[6] W. Miller, *The Latins in the Levant: A History of Frankish Greece (1204–1566)* (London: Murray, 1908), p. 487.

[7] *CroToc*, 2, 1, 526–27, p. 258; 10, 21, 3020–25, p. 442; 12, 10, 3315–17, p. 466; 13, 3, 3383–98, p. 472.

[8] For an example of familial discord among 'Franks' after the conquest of Constantinople, see *Geoffroy de Villehardouin, Robert de Clari, ceux qui conquirent Constantinople: Récits de la Quatrieme Croisade*, ed. by Noël Coulet (Paris: Union général d'éditions, 1966), p. 239.

Giuseppe Schirò connected these references to strong brotherly emotions to the fact that the brothers were of almost the same age.[9] These emotions might also be explained as a prevailing feature of the family. For instance, referring to the mother of Carlo and Leonardo, Magdalena Buondelmonti, the chronicler mentions that she never remarried after the death of her husband for that would mean a separation from her two boys whom she loved dearly.[10] Finally, a reason for the strong Tocco

---

Two examples of familial discord contemporary and close to the Tocco are those of the Orsini, see Nicol, *The Despotate of Epirus*, pp. 105 and 107, and of the Zaccaria family, see Juliana Chrysostomides, 'Historical Introduction', in *Manuel II Paleologos, Funeral Oration on his Brother Theodore*, ed. by Juliana Chrisostomides (Thessalonika: Association for Byzantine Research, 1985), 15–25 (p. 25). A passage of a documentary text edited in *Acta Albaniae Veneta saeculorum XIV et XV*, ed. by Joseph Valentini, 3 vols in 25 *fascicula* (Palermo: Centro Internationale di Studi Albanesi, 1967–72) (henceforth: *AAV*), I.3, no. 886 (7 July 1401), pp. 242–44 (p. 243, n. 1), led the editor Valentini to conclude that even Leonardo Tocco was involved against his brother in 1401. The text of the documentary passage goes as follows: 'Sed occurit, quod facta de hoc facto per capitaneum galearum conscientia domino suo domino regj etc. dicendo quomodo facta processerunt, ipse [the Venetian *baiulus*?] fuit grauiter turbatus contra eum [against Carlo?], in tantum quod nisi se reperissent ad suam presentiam, aliqui sui attinentes Jnter quos fuit Marchio Cotroni comes girate eius frater [for Valentini, the brother of Carlo Tocco], seruasset de modis grauibus contra eum, et propter istam causam, [Carlo] optat Jnformari a nobis [the Venetians] quomodo vivere habeat.' However, the same passage can be read differently from the edition by Constantine N. Sathas, *Documents inédits relatifs à l'histoire de la Grèce au Moyen Âge*, 9 vols (Paris: Maisonneuve, 1880–89), II, no. 244 (7 July 1401), pp. 35–37 (p. 36): 'Sed occurit quod facta de hoc facto consciencia domino suo regi, et dicendo quomodo facta processerant, ipse [Carlo?] fuit graviter turbatus, contra eum in tantum quod nisi se reperisset [Carlo?] ad suam presentiam [of the Neapolitan king?] alii sui attinentes [of the King?], inter quos sunt Marchio Cotroni, comes Girate, ejus frater servasset de modis gravibus contra eum et propter istam causam, optat informari a nobis quomodo vivere habeat.' Other parts of the document, for example Sathas, *Documents*, II, no. 244, p. 35, and *AAV*, I.3, no. 886, p. 242, clearly show that the problematic passage did not refer to Leonardo's involvement against his brother, but to Carlo's malicious intentions towards the Neapolitan king: 'Cum magnificus dominus dux lechate [*Luchate* in Sathas] et comes Zaphalonie [*Zephalonie* in Sathas] ciuis noster [of Venice] [. . .] libenter vellet Jnformari [*informari* in Sathas] a nobis et sentire nostram Jntentionem [*intentionem* in Sathas] si placet [*placeat* in Sathas] nostro dominio, quod non debeat obedire mandatis domini regis ladislaui [*Ladislaui* in Sathas], cujus est subditus.' Also, as no other document mentioned Leonardo with the titles of '*Marquise* of Cotron' or '*Comes* of Girata' (both places in southern Italy), it can be finally presumed that the documentary text in question did not refer to him. (Giuseppe Schirò, 'Il ducato di Leucade e Venezia fra il XIV e XV secolo', *Atti dell'Istituto Veneto di Scienze, Lettere ed Arti*, 132 (1973–74), 593–618 (p. 605), accepted the above-mentioned titles for Leonardo, but with no reference to any primary evidence.) For a more aparent indication of a dispute between the two brothers, see below, note 16.

[9] Schirò, 'Prolegomen I', p. 25.

[10] *CroToc*, 1, 1, 13–16, p. 220. Schirò, 'Prolegomen I', p. 12, noted her ambitiousness to remain regent.

brotherly affection might also be found in several inferences to the family's detachment from those they governed due to their foreign origin.[11]

Some other reasons can be added to these explanations of the Toccos' strong familial emotions. First, these emotions might easily have been a literary exaggeration, which is not an unusual feature of medieval narratives which discuss personal bonds. Secondly, one of the above-mentioned family emotions — the maternal affection of Magdalena Buondelmonti — might have been a projection of the ideal Christian picture of the maternal bond, or the famous pan-Mediterranean phenomenon of a motherly attachment to her male offspring.[12] As for the affection reported for Carlo and Leonardo, it might have been a projection of an ideal model of brotherly bonds from antiquity; the harmony of their relationship resembles the brotherhood concept found in Plutarch's treatise on brotherly love. As in Plutarch, there is a stress on the emotional aspects of their relationship, as well as their distinction through age, nature, social roles, and status.[13] Although there is no direct connection between the

[11] The chronicle clearly distinguished between the Franks (that is, the Tocco and their supporters) and the Greeks and other local ethnic groups. A useful reference for the notion of ethnical identities in the Tocco chronicle in Maria Preka, 'Η εθνικότητα στο χρονικό των Τόκκο', in *Πρακτικά Διεθνούς Συμποσίου για το Δεσποτάτο της Ηπείρου* (Arta 27–31 May 1990) (Arta: Μουσικοφιλολογικός σύλλογος Αρτης 'ο Σκουφάς', 1992), pp. 303–08.

[12] The results of my recent research in the Neapolitan State Archives (Winter 2001–02) further challenge the chronicler's notion about the harmonic relationship between Magdalena Buondelmonti and her son Carlo I. According to a certified copy (1 June 1695) of a letter in the *Registrum Ladislaui* (8 April 1400, of the eighth Neapolitan-style indiction), kept in Naples, Archivio di Stato di Napoli, Archivio di Tocco di Montemilleto, *busta* 48, fols $37^{r–v}$/$41^{r–v}$, the Neapolitan king Ladislas was implored by Magdalena Buondelmonti to urge her son, the Duke, to give back to her some of her dowry rights ('nonulla iura sua dotalia') she had enjoyed before. From the King's response it is also known that Magdalena's plea came after several occasions on which the Duke was unwilling to agree to his mother's claims ('Dux idem se ostendit multipliciter renitentem, compelli eum ad dandum et assignandum dicte Supplicanti Jura sua praedicta benignius mandaremus'). A similar documentary evidence on Magdalena's dispute with Carlo during the 1390s can be found in *Régestes des délibérations du Sénat de Venise concernant la Romanie*, ed. by Freddy Thiriet, 2 vols (Paris: Mouton, 1958–71), I, no. 803 (7 September 1391), p. 192, and AAV, I.2, no. 428, pp. 127–28. These documents were analysed by Juliana Chrysostomides, 'Italian Women in Greece in the Late Fourteenth and Early Fifteenth Century', *Rivista di studi Bizantini e Slavi*, 2 (1982), 119–32 (p. 126). The above-mentioned Archivio di Tocco di Montemilleto was deposited in the Neapolitan State Archives in 1949. This private archive remained undamaged during the turbulent times, and some of its pergamena and paper material about the medieval Tocco substitute for the referent official Angevin documents destroyed by the Nazis in 1943. I am most grateful to the archivists of the Neapolitan State Archives for their kind assistance during my research there.

[13] Although the chronicler's term for brotherly love ('ἀγάπη') is different from that used by Plutarch, 'Περὶ φιλαδελφίας' (*De fraterno amore*), in *Plutarch's Moralia*, ed. and trans. by W. C. Helmbold, 16 vols, Loeb Classical Library (Cambridge: Harvard University Press; London: Heinemann, 1970), VI, 246–325 (*Stefanus*, pp. 263D–351B), the following notions

work of Plutarch and the Tocco chronicler,[14] there is no doubt that the antique concepts of brotherhood could have reached and influenced the chronicler in many indirect ways.[15] Finally, there is a suspicion that the chronicler might have deliberately constructed the harmony of the Tocco relationship upon some models. This suspicion is based on the author's well-known status as a member of the entourage of Carlo Tocco and his intentions to glorify his famous patron in verse.[16]

The Tocco relationship, be it a special brotherly love, a literary exaggeration, a commonly accepted concept of antiquity, or even a deliberate fabrication, seems to have been, however, a more complex relationship than it appears at first reading. The first reason to believe this comes from the references to certain activities of Leonardo and the fact that they were all performed in the direct interests of his brother. There is no doubt that Leonardo was Carlo's commanding officer. He was mentioned as mustering Carlo's soldiers for a battle: organizing conscription, collecting necessities for campaigns, supervising defensive actions, providing security for his brother, and leading the soldiers into action.[17] It is also known that Leonardo performed his military

---

and criteria are similar: common origin (Plutarch, 478E, 6–10, and 485A, 1–3; *CroToc*, 1, 1, 3–6, p. 220), shared experience (Plutarch, 481D–E; *CroToc*, passim, for example, 12, 10, 3315–24, p. 466), age (Plutarch, 486F–487B; *CroToc*, 1, 1, 1–18, p. 220), different 'natural abilities' (Plutarch, 484B–485A and 487E; *CroToc*, passim, for example 1, 37, 507, p. 256 (emphasizing Carlo's abilities in governing), and 12, 2, 3342, p. 469 (emphasizing Leonardo's physical abilities)), differences in social roles and status in terms of the relationship superior/inferior (Plutarch, 484D and 485C; *CroToc*, 10, 17, 2967–71, p. 438 (the Tocco chronicler, however, does not seem to have wished to emphasize this)). My attention was drawn to the similarities between Plutarch's work and Christian notions of family bonds, which predate the Tocco brothers, by Reidar Aasgaard, 'Brotherhood in Plutarch and Paul: The Role and Character', in *Constructing Early Christian Families: Family as Social Reality and Metaphor*, ed. by Halvor Moxnes (London: Routledge, 1997), pp. 166–82.

[14] Schirò, 'Prolegomen II', p. 163, noted the intention of the chronicler to imitate Thucidides and Plato.

[15] Schirò, 'Prolegomen II', p. 164, assumed that the chronicler was skilled in writing, but not especially educated in letters. Yet, even if not substantially educated, the chronicler could have received the concepts of antiquity through several ways, such as Western travellers who visited the court of Carlo Tocco, other literary works of earlier times known to him (for example of Digenes Akritas), or perhaps even through some local common knowledge.

[16] Schirò, 'Prolegomen II', pp. 139–42, concluded that the author was either from the circle of administrative officers or from Carlo's military entourage, implying thus his need to show loyalty. Contrary to the Tocco harmony depicted by the chronicle, an indication of Leonardo's dissatisfaction with Carlo can be found in ASN, ATM, *busta* 48, fols. $27^{r–v}/31^{r–v}$ (11 March 1401, *ad ann*. 1398, certified 1 June 1695).

[17] Such activities are described in *CroToc*, 1, 27, 332–41, pp. 244–46; 2, 7, 612–14, p. 264; 5, 11, 1485–93, p. 330; 6, 5, 1666–69, p. 344; 6, 7, 1696–99, p. 346; 6, 9, 1715–23, pp. 346–48; 6, 11, 1737–49, pp. 348–50; 6, 17, 1859–60, p. 356, and 1875–76, p. 358; 9, 7, 2314–34, pp. 392–94; 9, 12, 2503–22, pp. 404–06; 12, 5, 3229–41, p. 460. The documentary evidence confirms the narration of the chronicler about Leonardo's military engagement for his brother,

activities excellently. He was referred to as a master of military tactics, and his military success must have distinguished him from other men in Carlo's eyes.[18] In addition, Leonardo seems to have been quite popular among his brother's soldiers. The significance of this characteristic should not be underestimated, since the soldiers of Carlo Tocco were, as reported by the Venetians, frequently unruly and lacking in discipline.[19]

There is no doubt that Leonardo Tocco also performed certain administrative activities in the realm ruled by his brother. As suggested by the anonymous chronicle, before 1416 he was governor of the town of Boditza (Βόδιτζα, Βοδίτζης).[20] After this year, he became governor of Arta, at which post he remained until his death in 1418 or 1419.[21] The verses mentioning him as Carlo's right-hand man also mentioned his duties and powers in governing the realm of Arta and Ionian islands, as well as in coordinating the local archons.[22] As the local elite of Epirus were renowned for their generally autonomous attitudes — which several times before Carlo Tocco resulted in plots and rebellions against regional rulers of foreign origin — Carlo's concern must have been to choose an unconditionally loyal person for the post of governor.[23]

---

for example *AAV*, II.6, no. 1530 (15 March 1410), pp. 23–24. Also, an act dated 1 November 1395 of the third indiction, as from Jean Alexandre C. Buchon, *Nouvelles recherches historiques sur la Principauté française de Morée et ses hautes Baronnies*, 2 vols (Paris: Imprimeurs Unis, 1843), I, 315, n. 1, mentions how Carlo assigned Leonardo to control the fortification of Corinthos on his behalf: 'Intradone per nome e per parte nostra e de la ditta madama Francesca, lo magnifico Leonardo frate nostro, per succurso, defensione e guardia dello dicto loco de Corintho.' Leonardo's engagement over Corinthos was confirmed by the Venetians, *AAV*, II.7, no. 847q (31 October 1400), pp. 12–15.

[18] *CroToc*, 6, 11, 1737–38, p. 348, and 6, 17–18, 1858–96, p. 356.

[19] From *CroToc*, 2, 8, 617–21, p. 264, it might be said that Leonardo was popular because he fought together with his men. As from *CroToc*, 2, 11, 658–60, p. 268, on the occasion of the sack of the city of Clarenza, Leonardo's popularity — the chronicler's audience is lead to believe — was not strong enough to prevent his soldiers plundering the city. Indications of the lack of discipline among their soldiers can be found in *Régestes*, ed. by Thiriet, II, no. 1295 (7 February 1408), p. 76. Also, see Sathas, *Documents*, I, no. 27 (16 November 1408), p. 31; Sathas, *Documents*, III, no. 642 (6 February 1414), p. 94.

[20] *CroToc*, 9, 6, 2280–81, p. 390. The chronology as from the *Prosopographisches Lexicon der Palaiologenzeit*, ed. by Erich Trapp, 12 vols (Vienna: Verlag der Österreichischen Akademie der Wissenschaften, 1976–96) (henceforth: *PLP*), XII, 5. For Carlo's battles over this place, *CroToc*, 1, 6–8, 87–114, pp. 226–28.

[21] *CroToc*, 10, 17, 2964–77, p. 438. *CroToc*, 12, 10, 3316–17, p. 466, suggests that Leonardo did spend some of his time in Arta, despite the references to his favourite residence on the island of Zakynthos in *CroToc*, 13, 2, 3368–70, p. 470.

[22] *CroToc*, 9, 6, 2280–84, p. 390: 'Τὸν ἀδελφόν του ἔβαλεν, τὸν μέγαν κοντοστάβλον / εἰς τὴν Βόδιτζα, εἰς τὰ νησιὰ νὰ τὰ ὁρίζῃ ὅλα· / τὴν Βόδιτζαν νὰ τὴν κρατῇν ὁ ᾽Ιωάννης Πρέσας, / καὶ τοῦ Μαθαίου ντὲ ᾽Ανάπολης τὸν πύργον τοῦ Βαρνάκου / μὲ πᾶσαν διακράτησιν καὶ ὅλες τὲς Κανδῆλες·.'

[23] About the fate of Thomas Preljubović and his wife Maria Angelina, see Τὸ χρονικὸν τῶν ᾽Ιωαννίνων κατ᾽ ἀνέκδοτον δημόδη ἐπιτομὴν, ed. by Leandros I. Vranousis,

Just as with his military assignments, it seems that Leonardo executed these tasks especially well. In the case of Arta, it was probably Leonardo who limited the independence of the local elite by using his right to convoke their assemblies and vote among them, thus influencing their decisions.[24]

There are several hints that Leonardo was also assigned diplomatic tasks by his powerful brother. Some of Leonardo's diplomatic missions seem to have been undertaken in his brother's name.[25] The fact that Carlo did not choose any of his own sons — at that time all mature — for any of these actions leads to the conclusion that Leonardo's loyalty of service and not his family affiliation to Carlo was the primary ground for these appointments.[26]

Certain 'hidden' hints about Leonardo's service to his powerful brother Carlo can also be found in the information about his personal benefits. Moreover, there is no doubt that Leonardo's children reaped the benefits of his service. A Venetian answer to one of Carlo's ambassadors in 1414 mentioned, among other things, that Leonardo

---

Ἐπετηρὶς τοῦ Μεσαιωνικοῦ Ἀρχείου, 12 (1962), 57–115 (pp. 78–83), chapters 7–12. Also about the power of the citizens of Ioannina, see *CroToc*, 4, 6, 1239–47, p. 312; 4, 10, 1296–1303, p. 316; 5, 1, 1304–10, p. 318; Michaelis Nepotis Ducas, 'De rebus Epiri fragmenta', in *Historia politica et patriarchica Constantinopoleos; Epirotica*, ed. by Immanuel Bekker (Bonn: Weber, 1849), pp. 209–39 (fr. 2, p. 230).

[24] For an earlier such case, *CroToc*, 2, 2, 528–39, p. 258. Some hints on the effects of the Tocco rule over Arta, *CroToc*, 9, 7, 2307–10, p. 392; 11, 4, 3105–06, p. 448; 11, 7, 3146–48, p. 452; 11, 4, 3108–10, p. 448.

[25] *CroToc*, 5, 14, 1475–77, p. 330, about Leonardo's role during the visit of the archons of Ioannina. For his mission to Yakub-bey, see *CroToc*, 10, 3–4, 2697–2743, p. 420, where Leonardo's abilities in diplomatic flattery and deceit were described. An interesting piece of documentary evidence on his mission to the Ottomans in 1390s can be found in Juliana Chrysostomides, 'Corinth 1394–1397: Some New Facts', *Byzantina*, 7 (1975), 83–110 (p. 105). For Leonardo's contacts with the Neapolitan court for his own interests, see *Notes et éxtraits pour servir à l'histoire des croissades au XV^e^ siècle*, ed. by Nicolae Iorga, 4 vols (Paris: Leroux, 1899–1916), II, 80 (1 April 1400). For Leonardo's contacts with the kindred of the Zaccaria, see *Notes*, ed. by Iorga, II, 98 (15 March 1404). In *CroToc*, 8, 1, 2128–32, p. 378, and 8, 3, 2155–56, p. 380, the suggestion that Leonardo recommended Carlo to the Byzantine emperor hints that Leonardo might have indeed represented the interests of his brother to the Byzantine ruling circles.

[26] As is widely known, Carlo had five illegitimate sons. The chronicle mentions four of them: see *CroToc*, 7, 2, 1940–45, p. 364, for Hercules; *CroToc*, 7, 3, 1945–48, p. 364, for Torno; *CroToc*, 7, 4, 1949–54, pp. 364–66, for Memnuno; and *CroToc*, 7, 5, 1955–58, p. 366, for Troiano. For Carlo's illegitimate sons also see Laonicos Chalcocondiles, *Historiarum demonstrationes*, ed. by Eugen Darkó, 2 vols (Budapest: Akademiai Kiadó, 1922–23), II, 15, chapter 5, lines 1–15. In this passage Chalcocondiles mentioned a practice, according to which illegitimate sons of the western lords in Greece also inherited some parts of their fathers' property (for the distribution of the land of Acheloi and Acarnania to the bastards of Carlo I Tocco). See also Chalcocondiles, *Historiarum demonstrationes*, I, 200, chapter 4, lines 9–11 (for the distribution of Beotia and Thebe to Antony by Nerio Acciauoli).

was assigned by his brother as the executor of his will.[27] To name Leonardo as his heir was not in concordance with the enacted law which did not favor horizontal lines of inheritance.[28] Therefore, when Leonardo died in 1418/19, Carlo chose as his heir Leonardo's son. This passed over his own children, who, although illegitimate, aggressively opposed the will after Carlo died, and it took time for his nephew, the legitimate heir, to ease the tension.[29] He, named Carlo (1429–48) after his mighty paternal uncle, seems to have been the favorite of Carlo I and his wife Francesca from his early years.[30] According to the chronicle, similar attention was given to the female children of Leonardo.[31] Thus in 1424, Carlo's wife, Francesca Acciauoli, referred to Carlo II and his sisters Magdalena and Creusa as to their children.[32] Carlo I also married two of Leonardo's daughters (Magdalena and one unnamed) to the kinsmen of the most prominent families, one of them to become the last Byzantine emperor, Constantine XI Dragases (1449–53).[33] In contrast, relatives from other branches whose marriages were also arranged by Carlo I never attained such high status.[34]

---

[27] Sathas, *Documents*, III, no. 616 (12 July 1414), p. 64.

[28] The practice of inheritance in the Kingdom of Naples, of which the Tocco were the nominal vassals, as from Gérard Delille, *Famille et proprieté dans le Royaume de Naples: XV–XIX siècles* (Rome: École française de Rome; Paris: Éditions de 1'école des Hautes études en sciences sociales, 1985), p. 31, dated back to 1231 and the Constitutions de Melfi of Frederich II (1194–1250). Delille (p. 30), however, points out that the inheritance practice of the time relied not only upon feudal laws, but also upon customs. An evidence that the inheritance in the Tocco part of Angevin Greece was regulated according to the practice and customs of *Romania* ('secundum usum et consuetudinem partium Romanie') can be found in a certified copy of the Archivio di Stato di Napoli, Archivio di Tocco di Montemiletto, *busta* 48, fols 10^{r}–11^{r}/13^{v}–14^{r} (24 March 1382 in Naples, certified 8 June 1695).

[29] Chalcocondiles, *Historiarum demonstrationes*, II, 15–16, chapter 5. *CroToc*, 13, 8, 3479–83, p. 478, suggests that Carlo I adopted his nephew even before Leonardo's death.

[30] *CroToc*, 13, 8, 3471–74, pp. 476–78; 13, 8, 3479–90, p. 478.

[31] *CroToc*, 13, 8, 3475–78, p. 478.

[32] Buchon, *Nouvelles recherches historiques*, II, no. 63, p. 283, where Francesca in a letter to her relative Nerio di Donato Acciauoli (1424 of the second indiction), says that her husband 'con Carlo e Maddalena e Creusa, nostri filii cavissimi [*sic*]' are in good health. The month during which the letter was issued was not stated (only the day of 28). As the indiction suggests, it could have been written any time between September and December 1424.

[33] About the marriage of Magdalena (Theodora) Tocco, see *Gregorii Sphrantzes Memorii 1401–1477*, ed. by Vasile Grecu (Bukarest: Academia Reipublicae Popularis Roumanicae 1966), book 16, chapters 1–3, p. 24. About her premature death, see *Sphrantzes*, book 20, chapter 9, pp. 46–48. Buchon, *Nouvelles recherches historiques*, II, 318, and idem, *Recherches et materiaux pour servir à une histoire de la domination française aux XIII, XIV, e XV siècles dans les provinces demembrées de l'Empire grec à la suite de la quatrieme croissade* (Paris: Desrez 1811), section 8, B, in his genealogical table of the Tocco, links Leonardo's unnamed daughter to Assanes Zaccaria.

[34] *CroToc*, 3, 22, 1033–44, p. 294, about a female relative married into the Albanian kindred of Bua. *CroToc*, 9, 20, 2606–08, p. 412, about a male relative marrying a Spata

References to Leonardo's military, administrative, and diplomatic activities, then, as well as these hints about his privileges, all suggest that Leonardo served the interests of his brother, and that he did this not only because he loved him as a brother, as the Tocco chronicler would like his audience to believe, but because he enjoyed certain benefits from this involvement. There is also no doubt that Leonardo's success, popularity, and, most importantly, loyalty were of utmost importance for Carlo I and his rule over the region. Following the narration of the Tocco chronicle, Schirò described Leonardo as Carlo's 'subordinate co-regent without a personal domain or prerogatives'.[35] For Rontogiannis, Leonardo received the same privileges as anyone else in the family and was in no possession of a domain.[36] Maksimović, in contrast, considering Leonardo nearly equal to Carlo, defined this relationship between the brothers as 'almost a diarchy'.[37]

None of these opinions, however, provides a full picture. First, the conclusions about the co-regency or diarchy of Leonardo Tocco are based primarily on the information of the Tocco narrative, while documentary evidence provides different information. For instance, the Venetian documents referred to the brothers as to the 'duke and his brother', thus clearly indicating the disproportionate status of the brothers.[38] This inequality was specifically recorded in 1409, when their sister Petronilla — by that time allied in marriage to an influential Venetian family — offered to mediate between her brothers and the Venetian Senate, but at the same time negotiated only with Carlo.[39] Carlo's leading role in this relationship was also noted several times by

---

kinswoman. The Tocco chronicle suggests that these marriages were concluded as a result of Carlo's need to make peace with the kindreds' chieftains. The significance of these Tocco marriages, although the allied kindreds of the Spata and the Bua were then at the zenith of their might, can not be, by any means, compared with the symbolism of the marriages of Leonardo's daughters to the imperial family of the Paleologoi and the princely and western (Genoese) family of the Zaccaria.

[35] Schirò, 'Prolegomen I', p. 30.

[36] P. G. Rontogiannis, *Ἱστορία τῆς νησοῦ Λευκάδος*, 2 vols (Athens: Ἑταιρεία Λευκαδικῶν μέλετων, 1980), I, 324.

[37] Ljubomir Maksimović, 'Dvor Epirskih despota u XIV i XV veku' (The court of the despots of Epirus in the fourteenth and fifteenth centuries), *Zbornik radova Vizantološkog instituta*, 33 (1994), 127–45 (p. 141).

[38] For example, *AAV*, II.5, no. 1413 (15 March 1409), pp. 211–12; *AAV*, II.6, no. 1530 (15 March 1410), pp. 23–27.

[39] *AAV*, II.5, no. 1414 (*c*. 15 March 1409), pp. 211–12, a Venetian commission to Petronilla instructed her to keep in contact with 'dominis Tocco fratribus'. However, a document published both in Sathas, *Documents*, II, no. 461 (15 March 1409), p. 220, and in *AAV*, II.5, no. 1413 (15 March 1409), p. 211, indicates that the significance of Leonardo was less than of Carlo: 'Et dictos suos fratres, seu ducam Zefalonie'. The same in Sathas, *Documents*, II, no. 461, p. 221: 'dicatur dicte domine Petronille [. . .] quod ipsa vadat ad dictos suos fratres, et procuret quod ipse dominus ducha sit contentus esse in concordio nobiscum'. Another document in Sathas, *Documents*, I, no. 32 (27 September 1410), p. 36, also mentioned that

Venetian scribes, who wrote that he intervened in Leonardo's litigations or negotiated security and safety for Leonardo's possessions when these were attacked by pirates.[40] Similarly, during Leonardo's hostility with the local clan of Zaccaria, King Ladislas of Naples appealed to Carlo to use his authority in calming Leonardo.[41]An indication of the unequal position of the brothers in terms of a superior/inferior relationship is also found in the way in which others referred to their titles — where Carlo was duke, Leonardo was count.[42] Even the Tocco chronicle hinted at the brothers' disproportionate status, mentioning that Leonardo was commissioned in a task by his brother, or that sometimes he was not privy to Carlo's thought processes.[43]

The second reason to challenge the existing determinations of the Tocco relationships concerns the level of independence of Leonardo Tocco from the authority of

---

Petronilla negotiated only with Carlo. A similar situation is seen from a document in *Notes*, ed. by Iorga, I, 142 (24 May 1404), which informs that the results of an earlier mediation of Petronilla regarded only Carlo.

[40] *AAV*, II.6, no. 1718 (17 March 1412), pp. 199–200, mention how Carlo's envoy requested the place of *Nepanto* from the Venetians 'in feudum pro fratre dicti domino'. *AAV*, II.7, no. 1821 (28 July 1413), pp. 69–71. (This document was dated differently by Sathas, *Documents*, I, no. 39 (11 August 1413), pp. 43–44.) Also see *Notes*, ed. by Iorga, II, 99 (16 March 1404), and Sathas, *Documents*, II, no. 419 (25 July 1407), p. 182.

[41] *AAV*, II.5, no. 1321 (6 February 1406), pp. 99–100, that the dispute with the Zaccaria was Leonardo's. *Notes*, ed. by Iorga, II, 99 (16 March 1404), published a note about an order of King Ladislas to Carlo Tocco in which the King asked Carlo to calm his brother. Ibid., p. 101 (20–24 April 1404), about the vassalage of Leonardo and Carlo to the Neapolitan king. A certified copy (1 June 1695) of this document is found in Naples, Archivio di Stato di Napoli, Archivio di Tocco di Montemilleto, *busta* 48, fols 20^{r}–21^{r}/23^{r}–24^{r}. The Venetians, mentioning that their help had been requested by both Tocco brothers during Leonardo's dispute with the clan of the Zaccaria, *AAV*, II.7, no. 1821 (28 July 1413), pp. 69–71, suggested that the dispute with the Zaccaria could have been the one which was in Carlo's interests. This is concluded from the Venetian documentary evidence according to which Carlo invited the Venetians to supervise his own places (*loca sua*) in return for the Venetian naval assistance to the brothers. The Tocco dispute with the Zaccaria was long standing; for an earlier stage of this dispute, see Buchon, *Nouvelles recherches historiques*, II, no. 55 (15 March 1404), pp. 273–74.

[42] Erasmo Ricca, *La nobilità delle due Sicilie*, 5 vols (Naples: Pascale, 1859–79), III, 275–76, quoted a document, lost in the 1943 destruction of the archives, of the *Registrum Ladislaui ad ann. 1404*, according to which Guillermo de Tocco, an envoy of the Neapolitan king to Cyprus, visited his relatives, the Duke of Leukas and the Count of Kephalonia. Sathas, *Documents*, I, no. 39 (11 August 1413), p. 43, is an illustration of the ambiguity of the titles held by Carlo Tocco. Further on this, see Schirò, 'Prolegomen I', pp. 30–31, and n. 3.

[43] *CroToc*, 2, 2, 528, p. 258, narrated how the brothers commonly analysed current affairs, but in *CroToc*, 10, 2, 2694–96, p. 420, the chronicler narrated how Carlo charged his brother with a diplomatic task because he was a 'suitable' man. *CroToc*, 10, 17, 2967–71, p. 438, suggests that the count was not always aware of his brother's plans. A direct mention of the perception that Carlo was giving orders to his brother can be found in *CroToc*, 12, 5, 3225, p. 460.

his brother. Contrary to the claims by Schirò and Rontogiannis, the documents reveal that Leonardo did have his own domains, his own network of subjects and clientele, as well as his own residence and revenues, all separate from Carlo's.[44] There are several indications that Leonardo, *de iure* the vassal of the Neapolitan king just like his brother, served also the Byzantine emperor for his own interests. As the Tocco chronicle narrates, Leonardo was awarded the title of great constable (μέγας κομεστάβουλος) by the Byzantine emperor after his military campaign against the 'great Tsasi' Eliabourko, the greatest opponent of the emperor in Morea. This award preceded Carlo's appointment to the Despot of Epirus, so it can not be said that Leonardo's advance in title was the result of his brother's success.[45] In fact, the chronicle indicates that it was Leonardo's engagement which facilitated the fulfillment of Carlo's ambitions for the despotic title.[46]

But the most important reason to challenge the existing assumptions about the Tocco brotherly relationship comes from the source evidence about Leonardo's

[44] *CroToc*, 2, 1, 524, p. 258, and 13, 2, 3368–70, p. 470, indicated Leonardo's residence to have been on the island of Zakynthos. *Notes*, ed. by Iorga, II, 98 (15 March 1404), about Leonardo's possessions of the castles of Achaia (*Turris Nemoris* and *castrum Spalato*), and a *feudum de la Valta*, additionally informing that these domains were donated to Leonardo by Peter de Saint-Exupery. However, Iorga's note on the content of this document does not indicate the motivation for the donation. Iorga's edition, together with a certified copy (1 June 1695) of a document in Naples, Archivio di Stato di Napoli, Archivio di Tocco di Montemilleto, *busta* 48, fols 24^{r}–25^{r}/27^{r}–28^{r} (15 March 1404 of the eighteenth indiction), and even *CroToc*, 6, 13, 1767, p. 350, and 6, 17, 1868–69, p. 358, inform how Leonardo had his own men (*proprii*/ἔδικοι τοῦ) whom he led for Carlo's interests.

[45] *CroToc* 8, 2, 2138–54, p. 380, according to which the Emperor honored Leonardo as his οἰκεῖος (for further reference, see Alexander Kazhdan, 'Οἰκεῖος', in *The Oxford Dictionary of Byzantium*, 3 vols (Oxford: Oxford University Press, 1990), III, 1515), decorated him with a title of μέγας κομεστάβουλος, and gave him imperial vestment and other honours because of his seizure of the castle of the great Tsasi of Morea, Eliabourko, and his victory of Mantinea on behalf of the Byzantine emperor. Nicol, *The Despotate of Epirus*, p. 182, concludes that Leonardo was given the title of great constable only on the basis of his factual homage to the Byzantine emperor in Morea. *PLP*, XII, 5, considers this to have happened in 1414. A more detailed consideration of the chronology of the events is in Schirò, 'Manuele', pp. 220–23. About Eliabourko and his title of great Tsasi, see Schirò, 'Manuele', p. 219.

[46] *CroToc*, 8, 2, 2138–52, p. 380, and 8, 3, 2155–71, pp. 380–82, is explicit in distinguishing the two events as having taken place separately, but *CroToc*, 8, 3, 2172–74, p. 382, mentioned that both brothers were nominated the imperial name of the Kantakouzenoi at the same time. Schirò, 'Manuele', p. 218, points out how a reader of the chronicle might easily conclude that Carlo's position of Despot was due to Leonardo's merits. According to a Ragusian document dated 21 September 1416, the younger Tocco brother was mentioned as 'magnificus dominus Leonardus de Kephalonia, magnus comestabilis imperii Romanorum' (as from Bariša Krekić, *Dubrovnik* [Raguse] *et le Levant au Moyen Âge* (Paris: Mouton, 1961), no. 626, p. 266). For a reference on Leonardo's title in 1416, see also Bariša Krekić, *Dubrovnik i Levant 1280–1460* (Ragusa and the Levant 1280–1460) (Belgrade: SANU, 1956), p. 125, n. 7.

possession of the island of Zakynthos. This evidence offers grounds for the conclusion that Leonardo's bonds of service with his powerful brother were far more significant than one might think. After Leonardo and Carlo's father died, the island of Zakynthos, like other Ionian islands, was governed by their mother, Magdalena Buondelmonti.[47] When the elder son Carlo came of age, he became the master of the entire Tocco domain. His titles of duke and count palatine included Zakynthos among other islands.[48] However, at some point — as mentioned by the Byzantine historian Laonicos Chalcocondiles, an anonymous panegyric, and the Annals of Stefano Magnó — Leonardo became 'lord of Zakynthos from Kephalonia', indicating that Carlo had transferred governance of the island to his younger brother.[49] The indications of the narrative sources are confirmed by the documents in which Leonardo was similarly entitled lord of Zakynthos.[50] A letter from the Angevin archives in Naples dated 1 April 1400 eliminates the Tocco sibling emotions as the basis for this donation. In this letter to King Ladislas of Naples, Leonardo Tocco personally declared that he had received the island of Zakynthos as a *donatio* from his brother, additionally mentioning that this had happened in 1399.[51] The reason for this

[47] Schirò, 'Prolegomen I', p. 27 and n. 2, argued that her regency lasted until 1389/90.

[48] Schirò, 'Prolegomen I', pp. 30–31, about Carlo's titles.

[49] Chalcocondiles, *Historiarum demonstrationes* I, chapter 4, lines 1–15, p. 196. Ἀνωνύμου πανηγυρικὸς εἰς Μανουὴλ καὶ Ἰωάννην Η' Παλαιολόγους, ed. by Spiros Lampros, in *Παλαιολόγεια καὶ Πελοποννησιακά*, 4 vols (Athens: Επιτροπή ἐκδοσέος τῶν Καταλοιπῶν Σπιριδώνος Λαμπροῦ, 1912–30), III, 194, lines 10–11. Stefano Magnó, 'Estratti degli Annali Veneti di Stefano Magnó', in *Chroniques gréco-romains inédits ou peu connues*, ed. by Charles Hopf (Berlin: Weidmann, 1873), p. 183 ('Lunardo dal Tocho [. . .] successit Carolus filius, cuius quidem frater Lunardo [. . .] se Zacynthi dominum fecit'), apart from indicating that Leonardo made himself master of the island, inaccurately dated the event into 1406. The indications of the narrative sources are confirmed by the documents: *Notes*, ed. by Iorga, II, 98 (15 March 1404), where King Ladislas in his letter to Centurione Zaccaria referred to Leonardo as 'of Kephalonia, the master of Zakynthos'. The certified copy of this letter (1 June 1695) remained preserved in Naples, Archivio di Stato di Napoli, Archivio di Tocco di Montemilleto, *busta* 48, fols $22^{r–v}/25^{r–v}$ (15 March 1404).

[50] Archivio di Stato di Napoli, Archivio di Tocco di Montemiletto, *busta* 48, fol. 22^{r} (15 March 1404); fol. 24^{r} (15 March 1404); fols. $29^{r}–30^{r}/33^{r}–34^{r}$ (12 April 1400, *ad ann.* 1398). As from a Venetian document in *Régestes*, ed. by Thiriet, I, no. 874 (6 May 1395), p. 206, Carlo was entitled Count of Kephalonia. In *Régestes*, I, no. 905 (23–27 March 1396), pp. 212–13, Carlo was mentioned as Duke of Leukas and Count of Kephalonia.

[51] *Notes*, ed. by Iorga, II, 80 (1 April 1400), how Leonardo of Kephalonia, the royal counsellor having revealed that his brother Carlo, duke of Leukas and count palatine of Kephalonia, donated to him the entire island, land, and castle of Zakynthos ('totam insulam, terram et castrum Jacinti'), previously in the possession of Magdalena Buondelmonti, under the condition that in case of Leonardo's death without a legitimate heir, the island was to be returned to Carlo, implored the confirmation of the donation by the Neapolitan king. A letter of the Neapolitan king Ladislas to Centurione Assanes Zaccaria, as from Buchon, *Nouvelles recherches historiques*, II, no. 55 (15 March 1404), pp. 273–74, mentioned Leonardo as

donation was not revealed, but its conditions, namely that in the case of Leonardo's death, or the death of his legitimate heir, the island had to be returned to Carlo, point to the practice of donation based on service.[52] Finally, a certified copy of an act issued in Naples on 12 April 1400 by King Ladislas goes even further in suggesting that Carlo and Leonardo's relations were based upon service.[53] Confirming the above-mentioned petition of Leonardo, the document says that he was given *in feudum* the entire island, land, and castle of Zakynthos with all juridical rights by his brother Carlo, duke of Leukas and count of Kephalonia.[54] The loyalty of Leonardo to Carlo as well as Carlo's wish to reward his brother's love for warfare and services Leonardo had done for him, were stated as the primary reasons for the donation.[55]

---

master of the island of Zakynthos ('viro magnifico, Leonardo de Kephalonia, insule Jachinti domino, nostro consiliario et fideli dilecto, etc.').

[52] The idea that it was Carlo who inherited the entire family domain has been generally accepted by modern historians, for example Ricca, *La nobilità delle due Sicilie*, III, 275; Spiros Lampros ''Ο πρόλογοω τοῦ τρίτου τόμου', in *Παλαιολόγεια καὶ Πελοποννησιακά*, III, 3–32 (p. 14); Ι. Κ. Βογιατζιδου, 'Συμβολή εἰς τὴν μεσαιωνικήν ἱστορίαν τῆς Ἠπείρου', *Ἠπειρωτικά χρόνικα*, 1 (1926), 72–80 (p. 79); Antoine Bon, La Morée franque: Recherches historiques, topographiques et archéologiques sur la principauté d' Achaïe (1205–1390), 2 vols (Paris: de Boccard, 1969), I, 282, n. 1. Nicol, *The Despotate of Epirus*, p. 184 and n. 15, dated the donation at 'some time around 1397'.

[53] The confirmation of King Ladislas, originally in the *Registrum Ladislaui* remained recorded in a certified copy (1 June 1695), Naples, Archivio di Stato di Napoli, Archivio di Tocco di Montemilleto, *busta* 48 (12 April 1400 of the eighth indiction), fol. 29^{r}: 'Dedid, donauit, et concessit sicut rem suam pro substentatione dicti exponentis, haeredum suorum praedictorum totam eius Insullam, Terram, et Castrum Jacinti, cum omnibus Juribus, membris et pertinentiis suis [. . .] inuestiuit, sibique, et dictis suis haeredibus renunciauit, donauit, et dedit omnia Jura, potestatem authoritatem, et dominium quas et quae Dux idem habebat in praedictis Insula, Terra et castro Jacinti, iuribus, et pertinentiis, ac membris omnibus antedictis.'

[54] Ibid.: 'per eundem, et suis heredibus utriusque sexus ex suo corpore legitime descendentibus natis iam, et in antea nascituris in perpetuum irreuocabiliter, liberaliter, et de nouo nomine feudi' (also, see fol. 29^{v}/33^{v}: 'feudali seruitio pro factis Ducatu Lucatae, Comitatu Cephalonie, et Insula Jacinti'). The above-quoted expression 'de nuovo nomine feudi' as well as the hint of a *per eum* formula suggest that this donation was perceived as *nova donatio*, which was, as noted by Pál Engel for Hungarian cases (Pál Engel, 'Nagy Lajos ismeretlen adományreformja' (An unknown donation reform of Louis the Great), *Történelmi Szemle*, 39 (1997), 137–57), a fourteenth-century Angevin invention designed to donate property excluding collateral kinsmen from the right to inherit it. About this topic also see Martyn Rady, *Nobility, Land and Service in Medieval Hungary* (London: Palgrave in association with School of Slavonic and East European Studies, University College, 2000), pp. 100–03.

[55] Naples, Archivio di Stato, Archivio di Tocco di Montemilleto, *busta* 48 (12 April 1400 of the eighth indiction), fol. 29^{r}/33^{r}, how 'olim [*sic*] Spectabilis Carolus Dux Lucatae et comes Kephaloniae Palatinus [the brother of the exponent], [. . .] considerans constantiam, quam dictus exponens erga dictum Ducem gessit, et gerit, et Volens ipsum fratrem amoris Bello tractare, et recognoscere seruitia sibi praestita [. . .] feudali quoque seruitio pro dictis Ducatu Lucatae, comitatu Kephaloniae, et Insula Jacinti.'

The donation formula, which mentions that Magdalena Buondelmonti — the mother of Carlo and Leonardo — as well as Carlo himself, had had the possession over the island, excludes the possibility that Zakynthos was given to Leonardo as a part of a family inheritance.[56] The conditional nature of the donation is clear from the clause that in case of Leonardo's death without legitimate heirs, the island was to be returned to Carlo.[57]

Thus, the Tocco brotherly relationship obviously did not function always as a relation between an older and a younger sibling. Neither can it be said to have functioned as a harmonically organized co-regency or diarchy. The documents show that Leonardo Tocco was in the service of his brother and that he was rewarded for it. Yet, was he assigned commissions because he was indeed the most reliable of Carlo's relatives in terms of skills and abilities, or because he was the closest to Carlo in emotional terms? This question can not be answered because the source material remains silent about the self-perceptions of the Tocco brotherly emotions. While the hints in the family narrative suggest that true brotherly feelings between the two Tocco should not be excluded, the documents show that this was not of primary importance. Therefore, if the Tocco relationship is defined as brotherly service,[58] then from the chronicler's description of the pain Carlo Tocco felt upon Leonardo's death one should read a cry of loss for a brother but also for a relationship which was important in a more expedient sense.[59] In that case, perhaps it indeed can be said that the chronicle's words ''Εσὺ ἤσουν τὰ ὀμμάτια μου, ἐσὺ ἤσουν ἡ ψυχή μου' with which Carlo reportedly mourned the loss, were not just an ordinary poetic metaphor, but a reflection of a pragmatic family strategy. [60]

---

[56] Ibid.: 'quas tunc tenebat, et possidebat magnifica Mulier Magdalena Ducissa Lucatae, et comitissa Kephaloniae Palatina.'

[57] Ibid.: 'ac voluit quod in casu quod dictus exponens sine legitimis haeredibus ab hac uita decederet et non aliios reuerentur penitus, et reddirent prout haec, et concessis ponuntur plenius contineri.'

[58] For some examples of those Franks in Greece of the thirteenth century who were under the command of their elder siblings, see *Geoffroy de Villehardouin, Robert de Clari, ceux qui conquirent Constantinople*, ed. by Coulet, p. 231 (for Henry, the brother of the Latin emperor serving in Misia and Armenia), and ibid., p. 233 (for Geoffroy Villehardouin, the nephew of Geoffroy, the Marchal of Romania and Champagne, serving in Syria). The connection between kinship ties and service was noted also by another Crusade writer, Henry de Valenciennes, in ibid., p. 310: 'je vous donne ma fille, à la condition [. . .] que vous en serez mon homme et m'en ferez le service'. For a conclusion about Carlo's skills in organizing the widest possible range of his relatives — including as well those of more distant Italian branches — see Nada Zečević, 'The Italian Kin of the Tocco Despot: Some Notes about the Relatives of Carlo I Tocco', *Zbornik radova Vizantološkog instituta*, 39 (2001–02), 237–48 (pp. 242–47).

[59] *CroToc*, 13, 3, 3383–98, p. 472, and 13, 5, 3431, p. 474.

[60] *CroToc*, 13, 3, 3390, p. 472: 'You were my eyes, you were my soul.'

Aspekte der Mutter und Tochter-Beziehung in der mittelhochdeutschen Epik: Beobachtungen zu den Trojanerromanen Konrads von Würzburg und Herborts von Fritzlar und dem 'Willehalm' Wolframs von Eschenbach

MARIA DORNINGER

Abstract

In Middle High German literature, relationships between mothers and daughters often only become visible when daughters reach the age of *adolescentia*. This is of special significance as it is within this age that the choice of a marriage partner is made and marriage takes place, which was of great importance for the nobility. A successful marriage was also suggestive of the successful assertion of dynastic interests. Literature can in this sense also underline the socialization processes of the nobility. Indeed mother-daughter relationships, even in the way that they function, can be understood as similar to literary and cultural paradigms, which indicate societal norms as well as possible changes within these norms. In the High Middle Ages one expects to find, as shown by Ursula Peters for example, parallel and vertical cognatic kinship groups and patrilineal familial organizations. Literary mother-daughter relationships, according to A. M. Rasmussen, point to the existence of social and cultural conventions and discourses, through which, on the one hand, medieval women defined their lives but, on the other, through which their lives were defined for them.

Regarding historical research on families, and the self-representation of the medieval nobility, the examination of affective components is fruitful, in that it can suggest certain constellations and potentials for conflict within medieval society. In this sense the chosen mother-daughter relationships of the high nobility in the literature of the twelfth and thirteenth centuries are explored: Herbort of Fritzlar's *liet von Troye* (especially Hekuba and Polyxena), passages from Konrad of Würzburg's *Trojanischem Krieg*, and the *Willehalm* of Wolfram of Eschenbach. The starting point of this paper on the study of mother-daughter relationships is provided by the didactic literature of the *Winsbeckin*. Aside from their communication of cultural norms, the poetic criteria of these works are also analysed, for the ways in which they

determine both the nature of the actions of the epic figures and the course of those actions. In the didactically oriented *Winsbeckin* mother and daughter are shown, in a generally idealized type of dialogue, to be linked on emotional, religious, and social levels, whereby the latter mirrors not only a teacher-student relationship, but also a relationship between lord and vassal. Yet the gendered behaviour instilled in the upbringing of young women and the consequent curbing of women's freedom of movement was also felt and understood in male society. This is illustrated by Konrad of Würzburg in the episode of Thetis and Achill. Thetis, motivated by motherly love, wants to keep her son Achill from death in the Trojan wars by disguising him as a girl. Meanwhile Achill is also the centre of the attentions of the young woman Polyxena, who secretly cultivates her love for him against the will of both her father and her influential and politically calculating mother, Hekuba, and despite the fact that her love for Achill crosses political frontiers. Due to the secrecy of their love, however, conflict with her mother cannot erupt, and Hekuba's continuing emotional ties with her daughter are shown in her desperation at Polyxena's death.

A complex mother-daughter alliance of a special sort is shown by Wolfram of Eschenbach in *Willehalm*, in the scene at the court of Laon. A possible non-alliance within the Roman Empire, which has catastrophic consequences for the town of Orange, is mirrored in three women of three generations and their behaviour towards closer male relatives. This threatened catastrophe is sparked by the behaviour of the Roman queen, Willehalm's politically influential sister, which does not conform to the norms of the kinship group. In particular her wise daughter Alyze, who in a reversal of roles is turned into the teacher of her mother, is able to resolve this conflict (which is also threatening to turn into a conflict between the women themselves). In this she is aided by Irmschart of Pavia, the mother of both the queen and Willehalm. Here the great importance of cognatic structures for kingship is shown.

In most of the examples mentioned the mother-daughter relationship is fashioned generally positively, even where the roles of daughter and mother are reversed. Yet even if an emotional bond between daughter and mother can be expected in principle, this does not stop a mother like Hekuba from using her daughter, here Polyxena, as a political instrument, thus causing Achill's death and unintentionally Polyxena's execution by Pirrus. Although mother-daughter relationships often appear to be pushed aside into minor scenes, these often prove to be key scenes for a whole work, as well as for the character sketches of the protagonists. Although in the individual epics a certain poetic bond of the mother-daughter relationship becomes visible, this does not blur the impression that a certain potential for power is mirrored within these mother-daughter alliances.

Einleitung

Mutter-Tochter-Beziehungen werden in der mittelalterlichen deutschsprachigen Literatur vor allem dann greifbar, wenn sich das Mädchen den Vorstellungen der Zeit entsprechend an der Schwelle zum Erwachsen-Werden befindet. Diese Zeit beginnt für die Mädchen mit dem Eintreten in die Phase der adulescentia ab etwa 12 Jahren.[1] Dieses Alter fällt nach unserer heutigen

[1] Shulamith Shahar, *Kindheit im Mittelalter* (München: Artemis; Zürich: Winkler, 1991), S. 29–30. Zu den unterschiedlichen Altersstufen des Menschen, die sich in infantia, puerita,

Einschätzung in die Zeitstufe der Vorpubertät und wird von dem Eintreten in die Geschlechtsreife bestimmt. Zu dieser Zeit erfolgt psychologisch eine langsame Ablösung von der Mutter und eine Neuorientierung am männlichen Partner, die zugleich eine Krise zwischen Mutter und Tochter herbeiführen kann. An diesem Punkt setzen die meisten literarischen Werke ein.[2]

Vor allem für den Adel der Feudalzeit ist die Wahl des Partners und damit die Ehe von immenser Bedeutung, da diese meist im Dienste der dynastischen Politik steht. Eine erfolgreiche Ehe zeichnet sich somit auch durch die Durchsetzung dynastischer Interessen aus.[3] Neben der Funktion der Repräsentation oder als Ventil für Sublimationsprozesse zeigt sich jedoch auch die Bedeutung der Literatur im höfischen Umfeld als unterstützender Faktor bei adeligen Sozialisationsprozessen.

Besonders Ann Marie Rasmussen hat sich in ihrer Studie 'Mothers and Daughters in Medieval German Literatur' mit der Mutter-Tochter-Beziehung auseinandergesetzt, indem sie repräsentative literarische Texte analysiert.[4] Die Mutter-Tochter-

---

adulescentia, iuventus, gravitas und senectus gliedern, siehe auch Isidor von Sevilla, der wie auch im Mittelalter häufig die infantia bis zum siebten Lebensjahr rechnet, während die pueritia vom siebten bis zum zwölften bzw. vierzehnten Lebensjahr reicht, *Etymologiae sive origines*, hrsg. von Wallace Martin Lindsay, 2 Bde. (Oxford: Clarendon, 1911), I, lib. XI, 2. Zur Heiratsfähigkeit der Mädchen ab 12 Jahren siehe auch Arnold Angenendt, *Geschichte der Religiosität im Mittelalter* (Darmstadt: Wissenschaftliche Buchgesellschaft, 2000), S. 274, und D. Schwab, Artikel 'Kinderehe', in *Handwörterbuch zur deutschen Rechtsgeschichte*, hrsg. von Adalbert Erler und Ekkehard Kaufmann, 5 Bde. (Berlin: Erich Schmidt 1971–98), III (1984), Sp. 725–27 (Sp. 726).

[2] Dieser Punkt kann mit Freud psychoanalytisch gedeutet werden als Bruch der Tochter mit ihrer Mutter, die ihre erste Liebe ist, um sich einer heterosexuellen Liebe zuwenden zu können, Ann Marie Rasmussen, *Mothers and Daughters in Medieval German Literature* (Syracuse: Syracuse University Press, 1997), S. 30. Da das erste Liebesobjekt eines Mädchens, die Mutter, von gleichem Geschlecht ist, gestaltet sich auch die Ablösung von der Mutter und damit die Zuwendung zum anderen Geschlecht für ein Mädchen komplizierter als für einen Jungen, Shelley Phillips, *Beyond the Myths: Mother-Daughter Relationships in Psychology, History, Literature and Everyday Life* (London: Penguin 1996), S. 75. Dies bedeutet das Ende des Wirkungsbereiches der Mutter, 'wo die Minne der Tochter beginnt', Lydia Miklautsch, 'Mutter- Tochter- Gespräche: Konstituierung von Rollen in Gottfrieds Tristan und Veldekes *Eneide* und deren Verweigerung bei Neidhart', in *Personenbeziehungen in der mittelalterlichen Literatur*, hrsg. von Helmut Brall (Düsseldorf: Droste, 1994), S. 89–108 (S. 101).

[3] Ursula Liebertz-Grün, 'Rollenbilder und weibliche Sozialisation im Adel', in *Geschichte der Mädchen- und Frauenbildung*, hrsg. von Elke Kleinau und Claudia Opitz, 2 Bde. (Frankfurt: Campus, 1996), I, 42–62 (S. 44).

[4] Zu ihrer Auswahl repräsentativer Texte gehören: der *Aeneasroman* Heinrichs von Veldeke, das *Nibelungenlied*, das *Kudrunepos*, der *Tristan* Gottfrieds von Straßburg, die *Winsbeckin* wie auch die Thematik betreffende Gedichte der Neidhart-Tradition und *Stiefmutter und Tochter*.

Beziehungen werden dabei hinsichtlich ihrer Funktion als literarische und kulturelle Paradigmen untersucht. Dabei kann die spezifische Repräsentation stereotyper Darstellungsmuster auch durch den Wechsel von gesellschaftskonformen und gesellschaftswidrigem Verhalten auf historische Veränderungen hinweisen. Diese können sichtbar werden etwa in einer verstärkten patrilinearen Organisation der Geschlechter oder in einem Wechsel innerhalb der feudalen Heiratspraxis und der damit verbundenen Wiederaufnahme der Diskussion um die Machtausübung von Frauen wie auch in der Sexualisierung der Frau in der mittelalterlichen Literatur.[5]

Auf die Diskussion um die Bedeutung von patrilinearen Strukturen im Früh- und Hochmittelalter ist auch Ursula Peters eingegangen. Georges Duby und Karl Schmid sehen im 12. Jahrhundert das Geschlechtsbewusstsein auf patrilineare Strukturen reduziert, während sich Primogenitur und agnatische Erbfolge durchsetzen. Constance B. Bouchard und Jack Goody dagegen betonen die Existenz eines Bewusstseins ebenso zu der Verwandtschaft der mütterlichen Seite zu gehören. Daher kann man — so auch David Herlihy — mit einem Neben- und Übereinander kognatischer Verwandtschaftsgruppen und patrilinearer Familienorganisation rechnen. Nach J. Goody wird dabei der agnatische Bereich vor allem in Recht und Herrschaft wirksam, während der kognatische Bereich eher den Lebenssituationen, die kirchlich geprägt sind, zuzuordnen ist.[6]

Da für die meisten Texte ein männlicher Autor anzunehmen ist, erscheint eine Annäherung an die Texte mit Hilfe moderner psychoanalytischer Kategorien problematisch.[7] Dennoch verweisen die vorhandenen literarischen Mutter-Tochter-Beziehungen auf soziale und kulturelle Konventionen und Diskurse, durch die mittelalterliche Frauen einerseits ihr Leben prägten, durch die ihr Leben jedoch auch geprägt wurde.[8]

In diesem Sinne können literarische Werke auch im Hinblick auf mentalitätsgeschichtliche Kriterien und gesellschaftliche Strukturen wertvolle Informationen geben,

---

[5] Rasmussen, *Mothers and Daughters*, S. xi. Vor allem im Frühmittelalter zeigt sich die adelige Verwandtengruppe nicht beschränkt auf agnatische Strukturen, siehe dazu und zu der patrilinearen Organisation der Geschlechter Gerd Althoff, *Verwandte, Freunde und Getreue: Zum politischen Stellenwert der Gruppenbindungen im früheren Mittelalter* (Darmstadt: Wissenschaftliche Buchgesellschaft, 1990), S. 35.

[6] Ursula Peters, *Dynastengeschichte und Verwandtschaftsbilder: Die Adelsfamilie in der volkssprachigen Literatur des Mittelalters* (Tübingen: Niemeyer, 1999), S. 13–23.

[7] Rasmussen, *Mothers and Daughters*, S. 17–18. Nach Helga Kraft waren die Bereiche von Männern und Frauen im Mittelalter meist streng getrennt. Es ist anzunehmen, dass sich dieser Umstand auch auf die Darstellung von Frauen ausgewirkt hat, Helga Kraft, 'Töchter, die keine Mütter werden: Nonnen, Amazonen, Mätressen. Hildegard von Bingen, Mechthild von Magdeburg, Grimmelshausens *Courasche*, Gotthold E. Lessings Marwood in *Miss Sara Sampson*', in *Mütter-Töchter-Frauen: Weiblichkeitsbilder in der Literatur*, hrsg. von Helga Kraft und Elke Liebs (Stuttgart: Metzler, 1993), S. 35–52 (S. 37).

[8] Rasmussen, *Mothers and Daughters*, S. 17.

vorgefundene Beziehungsbilder somit bestätigen, relativieren bzw. korrigieren. Damit vermögen sie auch im Sinne der historischen Familienforschung auf die Selbstdarstellung des mittelalterlichen Adels wie auch auf Gruppen- und Geschlechterbewusstsein hinzuweisen.[9] Als fruchtbar kann sich dabei auch die Untersuchung affektiver Komponenten erweisen, die bestimmte Konstellationen wie auch Konfliktpotentiale innerhalb der mittelalterlichen Gesellschaft sichtbar machen können.[10]

Den Gegenstand der folgenden Untersuchung bilden die Mutter-Tochter Beziehungen im Trojastoff und im Stoffbereich der chanson de geste. Vor allem im *liet von Troye* Herborts von Fritzlar wird diese Beziehung an Hekuba und Polyxena deutlich gemacht wie auch die Beziehung der blutsverwandten Damen zueinander im *Willehalm* Wolframs von Eschenbach. Eine Ergänzung bilden spezifische Passagen vor allem von Konrad von Würzburg und der *Winsbeckin*, die ausgehend von ihrem didaktischem Anspruch auf das erwünschte gesellschaftliche Rollenverhalten von Mutter und Tochter wie auf das von Frauen an sich hinweisen.

Im Zentrum steht die Gesellschaft des Hochadels, die im 12. und 13. Jahrhundert vornehmlich das Personal der literarischen Werke bildet. Allen ausgewählten epischen Werken gleich ist die periphere Einbindung dieser Mutter-Tochter Beziehungen in ein Geschehen, das sich auf den Kampf um eine Stadt und damit um eine politisch-militärische Vorherrschaft konzentriert. So bilden diese Beziehungen gleichsam nur einen Nebenschauplatz der Handlung. Dabei wird zu hinterfragen sein, wie sich die Beziehungen von Mutter und Tochter untereinander im kommunikativ-kulturellen Bereich und damit auch in ihrem gesellschaftlichen und emotionalen Rahmen gestalten und wie weit deren Handlungsweisen auf den Gang der Handlung Einfluss nehmen bzw. auch von poetologischen Kriterien bestimmt sind.[11]

---

[9] Zur historischen Familienforschung siehe Peters, *Dynastengeschichte*, S. 33. Mentalität wird von Peter Dinzelbacher definiert als 'das Ensemble der Denk- und Empfindungsweisen und -inhalte, von denen ein bestimmtes Kollektiv in einer bestimmten Zeit geprägt ist. Mentalität manifestiert sich in Äußerungen und im Verhalten': Peter Dinzelbacher, 'Gefühl und Gesellschaft im Mittelalter: Vorschläge zu einer emotionsgeschichtlichen Darstellung des hochmittelalterlichen Umbruchs', in *Höfische Literatur, Hofgesellschaft, höfische Lebensformen um 1200*, hrsg. von Gert Kaiser und Jan-Dirk Müller (Düsseldorf: Droste, 1986), S. 213–41 (S. 236).

[10] Zu den Gefahren der strukturanthropologischen Methode, jedoch auch ihren Vorteilen gerade im Hinblick auf die Verbindung zwischen 'strukturanthropologischer und gesellschaftsgeschichtlicher literarhistorischer Argumentation', siehe Peters, *Dynastengeschichte*, S. 53, 56.

[11] Den Zusammenhang zwischen Gattung bzw. Textsorte und der darin geäußerten 'Erwartungshaltungen' im Hinblick auf das Verhalten betont auch Ingrid Bennewitz, '"Darumb lieben Toechter / seyt nicht zu gar fürwitzig . . .": Deutschsprachige moralisch-didaktische Literatur des 13.–15. Jahrhunderts', in *Geschichte der Mädchen- und Frauenbildung*, hrsg. von Kleinau und Opitz, I, 23–41 (S. 24).

Die Mutter als Lehrende

Die ideale Mutter und Tochter-Beziehung in der didaktischen Literatur am Beispiel der 'Winsbeckin'

Nach Shulamith Shahar gestaltet sich die Beziehung zwischen Mutter und Kind im allgemeinen nicht allzu eng, da die mittelalterlichen Erziehungsgrundsätze mit dem oftmals praktizierten Prinzip der Ausbildung des Kindes an einem von der Mutter entfernten Ort eine tiefere emotionale Bindung nicht aufzukommen lassen scheinen. Dies gilt insbesondere für Knaben, kann jedoch auch für Mädchen von besonderer Bedeutung sein, die generell länger unter der Obhut der Mutter standen. Im Falle einer frühen Verlobung kamen sie häufig sehr bald an den Hof ihres zukünftigen Gemahls.[12] Zudem war die Kindheit im Verhältnis zu heute relativ kurz. Nach Philippe Ariès 'waren [. . .] Gefühle zwischen Ehegatten, zwischen Eltern und Kindern keine unabdingbare Voraussetzung für die Existenz wie für das Gleichgewicht der Familie', jedoch war es gut, wenn sich diese einstellten. Bedeutung hatte vor allem die Erhaltung des Besitzes, die gegenseitige Hilfe oder auch die Verteidigung des Lebens und der Ehre.[13]

Ein anderes Bild, in dem auch eine affektive-emotionale Komponente eine Rolle spielt, zeigt sich jedoch auch in der didaktischen Literatur. Diese bietet Orientierungspunkte für eine ideale Mutter-Tochter-Beziehung und präsentiert die Mutter in ihrer Rolle als Erziehende und Lehrende, wie im Dialog der anonym überlieferten *Winsbeckin*.

Mutter und Tochter werden bereits durch ihre Namenlosigkeit ins Typische und damit auch zum Exemplum erhoben. Als die zentrale Thematik dieses Gespräches kann die Rolle der Frau in einer männlich geprägten Gesellschaft gesehen werden, auf die hin ihr Verhalten ausgerichtet sein soll. A. M. Rasmussen hat ihren Abschnitt zur *Winsbeckin* dem entsprechend überschrieben mit 'Bist du begehrt, so bist du wert'. Es geht im Gespräch um die Fragen: Wie soll man sich als Frau vor allem gegenüber dem anderen Geschlecht verhalten? Was soll man tun oder besser lassen? Was kann die Macht der Liebe bewirken? Das Thema Liebe wiederum und die damit gegebene Vorbereitung für eine Ehe setzt eine Tochter voraus, die sich in der Nähe der Geschlechtsreife befindet. Dabei werden Vorstellungen bzw. Wunschvorstellungen der ersten Hälfte des 13. Jahrhunderts präsentiert. Der Gesprächsverlauf ist ideal,

[12] Shulamith Shahar**,** *Die Frau im Mittelalter* (Hamburg: Fischer, 1983), S. 141. Berühmt wurde das Beispiel der hl. Elisabeth von Thüringen, die bereits als vierjähriges Mädchen an den Hof ihres Verlobten in Thüringen gebracht wurde, Claudia Opitz, *Frauenalltag im Mittelalter: Biographien des 13. und 14. Jahrhunderts* (Weinheim: Deutscher Studien Verlag, 1991), S. 80. Zur hl. Elisabeth siehe auch Edith Ennen, *Frauen im Mittelalter* (München: Beck 1994), S. 124–25. Nach Shahar stützt zudem ein patriarchalisches System vor allem die Beziehungen zwischen Mann und Frau und erst sekundär diejenigen zwischen Mutter und Kind, ebd. S. 108.

[13] Philippe Ariès, *Geschichte der Kindheit* (München: dtv, 1978), S. 47.

obwohl, wie auch Anne Marie Rasmussen festgestellt hat, durchaus Oppositionen der Tochter gegen die Mutter stattfinden. Somit regt sich auch Widerstand gegen das von der Mutter in der Gesellschaft vorgestellte Ideal.[14] Jedoch — die Grundsituation des Verhältnisses beider ist zumindest in diesem dargestellten Gesprächsverlauf klar. Beide Frauen sind auf drei Ebenen einander verbunden. 1) Auf der emotionalen Ebene: Beide lieben einander und scheuen sich nicht dies auszudrücken.[15] 2) Auf der religiösen, die sich an biblischen Verhaltensmustern und Geboten orientiert, wie auch das Mädchen weiss, das mit seiner Aussage auf Ex. 20. 12 hinweist: 'vater und muoter suln diu kint / wol êren, daz hât er geboten' (Wbn. 2,8–9).[16] 3) Eine weitere Verbindung ergibt sich auf der gesellschaftlich-sozialen Ebene, die sowohl durch die *munt* der Mutter als auch durch das (literarisch-) klassische Lehrer-Schüler-Gespräch gegeben ist. Dieses zeigt ebenfalls eine hierarchische Struktur und macht die jeweilige Aufgabe und Rolle als Erziehende und Gehorchende deutlich. So betont die Tochter mehrmals den Gehorsam, den sie der Mutter leisten möchte (Wbn. 2,26), ja sie verpflichtet sich gar durch ein Treueversprechen ('triuwe') dazu, den Rat der Mutter einzuhalten.[17] Diese Verhaltensweise erinnert und spiegelt das Verhältnis von Lehensherrn und Lehensmann im Feudalwesen, zumal die Tochter bei eigenem ungehorsamen Verhalten der Mutter das Recht einräumt, sich von jeder

---

[14] Von der Mutter werden die Verbindungen zwischen männlichem Begehren und sozialer Anerkennung betont. Insgesamt entbehrt dieser Dialog nicht der Komik, wie er auch unterhaltende Züge aufweist, Rasmussen, *Mothers and Daughters*, S. 143–44, 150–52. Siehe dazu auch A. M. Rasmussen, 'Bist du begehrt, so bist du wert: Magische und höfische Mitgift für die Töchter', in *Mütter-Töchter-Frauen*, hrsg. von Kraft und Liebs, S. 7–34 (S. 11–12). Ebenso weist dieses Mutter-Tochter-Gespräch auch Verbindungen zu ebensolchen im Nibelungenlied und im Aeneasroman auf, Rasmussen, *Mothers and Daughters*, S. 143–44. In der Didaxe geht es nicht um Individuation oder etwa Entfaltungsmöglichkeiten 'für das (männliche) Individuum', Bennewitz, '"Darumb lieben Toechter"', S. 28.

[15] 'Ein wîplich wîp in zühten sprach / zir tohter, der si schône phlac: / "wol mich, daz ich dich ie gesach! / gehoehet sî der süeze tac, / dâ dîn geburt von êrste an lac / sît ich mit ganzer wârheit wol / mit wîser volge sprechen mac, / dîn anblic sî eins meien zît" [. . .], Dû lobest mich, liebiu muoter mîn, / alsam ir kint ein muoter sol / ich lige dir in dem herzen dîn / und tuon dir in den ougen wol. / mîn triuwe ist ouch gen dir niht hol. / dû bist mir lieber danne der lîp: / der liebe ist gar mîn herze vol' (Wbn. 1,1–8; Wbn. 34,1–7), 'Winsbeckin', in *Winsbeckische Gedichte nebst Tirol und Fridebant*, hrsg. von Albert Leitzmann, 3. neubearbeitete Ausgabe von Ingo Reiffenstein (Tübingen: Niemeyer, 1962), S. 46–66. Das Gedicht umfasst 450 Verse und wird im Folgenden mit Wbn. abgekürzt.

[16] *Die Bibel*, Einheitsübersetzung (Freiburg: Herder, 1980). Vergleiche dazu auch aus Sprüche 1.8b den Rat, der in gleicher Weise für Söhne und Töchter gilt: 'Höre, mein Sohn auf die Mahnung des Vaters, / und die Lehre Deiner Mutter verwirf nicht!'

[17] '[Tochter:] Ich will dir des mîn triuwe geben, / die kristen ê gesetzet hât, / die wîle ich einen tac sol leben, / ich gebriche nimmer dînen rât' (Wbn. 28,1–4). Der *triuwe*-Begriff wird jedoch auch hier durch religiöse Komponenten erweitert.

Verantwortung bzw. Schuld zu entbinden.[18] Der Ungehorsam der Tochter könnte in diesem Sinne als Felonie aufgefasst werden, die die Verpflichtung der Mutter aufhebt, die Tochter zu unterstützen. Das Ansehen der Mutter wird somit nicht geschmälert. Gleichzeitig muss jedoch auch bei dieser Aussage der Tochter mit einer Konnotation eines Trotzdem-Verpflichtet-Seins der Mutter gerechnet werden.[19]

Das *triuwe*-Verhältnis zwischen Eltern und Kindern ist gegenseitig. Dass die Mutter bzw. die Eltern den Kindern gegenüber Verpflichtungen hinsichtlich von Zuneigung und Unterstützung (*genade*) haben, darauf weist auch das *gemahel* im 'Armen Heinrich' Hartmanns von Aue hin, das sich ebenfalls zum Gehorsam verpflichtet fühlt.[20] Im *Armen Heinrich* werden vom *gemahel* zudem religiöse Berufung und eigene Bestimmung des Lebens verbunden.

Allgemein umfassten die Pflichten der Eltern eine gute Erziehung für das Kind, die Sorge für ein dem Stand angemessenes Verhalten und eine materielle Versorgung, die dem Vermögen entsprach. Durch die *triuwe* sind somit Eltern und Kinder gebunden. Dieser Gehorsam den Eltern gegenüber kann jedoch dort aufhören, wo man vermeint, Gott gegenüber oder sich selbst mehr Gehorsam zeigen zu müssen.[21]

Zur literarischen Mutter-Tochter-Beziehung in der Epik. Mutter und Pseudotochter. Eine kleine Verhaltenslehre für junge Damen

Ein Mutter und Tochter-Gespräch ein wenig der anderen Art, das nicht eines gewissen Humors entbehrt und das die Lehre einer Mutter über das alltägliche

[18] '[Tochter:] und lêre mich nâch êren leben, / gebâren unde sprechen eben, / daz ich den wîsen wol behage: / daz will ich nimmer übergeben. / tuon ich niht den willen dîn, / sô hâstû dich enbunden wol / und muoz ich eine schuldic sîn' (Wbn. 12,4–10).

[19] Ein endgültiger Bruch einer Eltern-Kind-Beziehung findet sich im *Helmbrecht* Wernhers des Gärtner. Nachdem der Sohn seine Bindung an den Vater aufgesagt hat, ist dieser nicht mehr bereit den in das Elend geratenen Sohn wieder aufzunehmen oder zu versorgen. Im Gegensatz dazu steckt die Mutter dem Sohn, der sich von ihr jedoch nicht losgesagt hat, ein Stück Brot zu, Vv. 1372, 1740–1814, Wernher der Gartenaere: *Helmbrecht*, hrsg. von Friedrich Panzer (Tübingen: Niemeyer, 1974).

[20] '[Das gemahel:] Muoter, ich getrûwe dir / und mînem vater her ze mir / aller der genâden wol / der vater unde muoter sol / leisten ir kinde, / als ich ez wol bevinde / an iu aller tägelich [. . .] Ich sol von mînen schulden / ûz iuwerern (der Mutter, hier allgemein Eltern) hulden / niemer komen, will ez got. / ez ist gewisse sîn gebot / daz ich iu sî undertân, / wan ich den lîp von iu hân: / daz leiste ich âne riuwe. / ouch sol ich mîne triuwe / an mir selber niht brechen. / [. . .] Wie gerne ich iu des volgen will / daz ich iu triuwe leiste, / mir selber doch die meiste!': Hartmann von Aue, *Der arme Heinrich*, hrsg. von Hermann Paul, 15. neu bearbeitete Auflage besorgt von Gesa Bonath (Tübingen: Niemeyer, 1984), Vv. 663–69, 813–821, 828–830.

[21] Im Laufe der Zeit hatte sich zudem die ursprünglich rein väterlichen Gewalt in eine elterliche Gewalt gewandelt, Hans K. Schulze, *Grundstrukturen der Verfassung im Mittelalter*, 3 Bde. (Stuttgart: Kohlhammer, 2000), II, 33.

Verhalten einer Frau beinhaltet, wird von Konrad von Würzburg in seinem Trojaroman gezeigt, den er 1287 unvollendet lassen musste. Der Torso umfasst etwa 40424 Verse. Das sprachlich beeindruckende Werk möchte eine möglichst große Fülle an Trojaüberlieferungen einbeziehen und orientiert sich auch am Trojaroman von Benoît de Sainte-More.[22] Konrad zeigt die Mutter als Lehrende und Erzieherin ihrer Tochter im Hinblick auf das alltägliche Verhalten einer Frau.

Der drohende Trojanische Krieg erweckt nicht nur die Besorgnis der trojanischen Seherin Kassandra, sondern auch die der Meernymphe Thetis,[23] weiß diese doch, dass ihr Sohn Achill in diesem Krieg sterben wird. Dies will sie jedoch verhindern und den Sohn davor schützen, indem sie eine List anwendet und den tief schlafenden Achill von seinem Lehrer Chiron, der ihn bis jetzt in ein Leben der Abhärtung und des Kampfes eingeführt hat, zu der Insel Skyros entführt. Der Plan von Thetis ist folgender, sie will Achill für die Griechen, die von seiner Tapferkeit wissen, unauffindbar machen. Daher möchte sie Achill unter den Edelfrauen am Hof des König Lycomedes in Mädchenkleidern verbergen. Dieser Plan gibt dem Autor Gelegenheit, eine unterhaltsame Stelle über crossdressing und die Aufgabe der Mutter bei der Erziehung der Tochter zu einem weiblichen (gender-)Verhalten einzufügen. Achill jedoch ist von dem Plan der Mutter nicht begeistert und wehrt sich als tapferer Jüngling ganz gegen Mannesehre in Frauenkleider gesteckt zu werden. Da fruchten auch die Beispiele aus der antiken Mythologie nichts, die Thetis, um Achill zu überzeugen, als Exempla präsentiert.[24] Als er aber die wunderschöne Tochter des Königs, Dêîdamîe, sieht, erweist die *minne* ihre Macht an ihm und hält ihn in ihren Fesseln.[25] Nun ist er bereit und als Kind seiner Mutter gehorsam.[26] Um in Dêîdamîes Nähe bleiben zu können, lässt er sich daher auf den Geschlechtertausch ein und wird

[22] Konrad verwendete jedoch auch die *Achilleis* von Statius, siehe dazu Horst Brunner, Artikel 'Konrad von Würzburg', in *Verfasserlexikon*, begründet von Wolfgang Stammler, fortgeführt von Karl Langosch, hrsg. von Kurt Ruh mit Gundolf Keil, Werner Schröder, Burghart Wachinger, Franz Josef Worstbrock, 10 Bde. (Berlin: de Gruyter 1978–99), v (1985), Sp. 272–304 (Sp. 297), und Klemens Alfen, Petra Fochler, und Elisabeth Lienert, 'Deutsche Trojatexte des 12. bis 16. Jahrhunderts. Repertorium', in *Die deutsche Trojaliteratur des Mittelalters und der Frühen Neuzeit: Materialien und Untersuchungen*, hrsg. von Horst Brunner (Wiesbaden: Reichert, 1990), S. 7–199 (S. 16).

[23] Konrad von Würzburg, *Der trojanische Krieg*, nach den Vorarbeiten K. Frommanns und F. Roths. Zum ersten Mal hrsg. von Adelbert von Keller (Amsterdam: Rodopi, 1965). Zur Besorgnis von Thetis und ihrem (ausgeführten) Plan siehe (Vv. 13773–15349).

[24] Thetis erwähnt neben Juppiter noch Herkules, der auch Frauenkleider getragen hat. Für beide war dies nicht unehrenvoll gewesen: Vv. 14388–425.

[25] 'Er nam ir gar mit flize war. [. . .] / Achille dur sîn herze bran. / ez warf in unde stiez in an / daz wilde fiur der minne' (Vv. 14685, 14695–97).

[26] Wiewohl Achill von der Liebe zu Dêîdamîe bezwungen ist, führt er dennoch den Wunsch der Mutter aus und fügt sich ihren Lehren. Die Blutsverwandtschaft wird vom Erzähler auch als Grund für den Gehorsam angeführt: 'er was ir werdes lîbes fruht, / dâ von tet er, daz si gebôt' (Vv. 15000–01).

seinem gender und oberflächlichen Aussehen nach ein Mädchen, '[er . . .] wart geschepfet als ein wîp'. Kleidung und geflochtenes Haar stehen ihm vortrefflich (Vv. 14945–57), so dass er von Thetis leicht als Schwester von Achill ausgegeben werden kann, wie sie es schließlich auch tut (V. 15170). Vorher muss er jedoch noch die Sitte und Verhaltensweisen der Frauen annehmen, denn 'ein teil ze wilde / was dennoch diu gebaerde sîn' (Vv. 14961–62).

Während Thetis Achill zum König geleitet, nimmt sie die mütterliche Aufgabe der Erziehung der ihrer Tochter wahr und versucht, ihn das zu lehren, was Mädchen bereits von Jugend auf lernen müssen.[27] Dabei wird ein Katalog von höfischen Verhaltensweisen sichtbar, der die Gewandtheit von Thetis im gesellschaftlichen Verhalten zeigt und der die Benimm-Regeln für eine Frau, die Thomasin von Zerclaere überliefert, ergänzt. Da ist zuerst einmal der Gang: nicht laufen, ruhig gehen, kleine Schritte machen, nicht trampeln. Dann: sich als vollkommene Frau verhalten und arme und reiche Menschen gleichermaßen grüßen, den Kopf züchtig halten, die Blicke nicht herumschweifen lassen. Übles soll nicht als angenehm empfunden werden, ebenso soll man nicht lachen über unhöfisches Verhalten, das Herz und den Ruf in Tugend bewahren, selbst keine bösen oder schlechten Worte sprechen bzw. überhaupt nicht viel sprechen, und wenn, dann langsam sprechen, wie es sich für eine adelige Dame gehört. *Mâze* soll gehalten werden bei Essen und Trinken. Eine untadelige Haltung beim Sitzen ist nötig, die Hände gehören — wie es sich geziemt — nach vorne. Die weibliche Tugend, die rechtes, höfliches, zurückhaltendes und sittsames Verhalten beinhaltet, ist das allumfassende ethische Ideal, nach dem Achill streben soll. Auch mit der Kleidung soll das neugeschaffene Mädchen richtig umgehen. Ebenso gibt Thetis Anweisungen, die Achills Unentdecktsein als Mann gewährleisten sollen. Er soll sich an dem Verhalten anderer Mädchen orientieren, seine kräftige Stimme dämpfen und schließlich vor ungehörigen oder unhöflichen Männer fliehen, da sie sein wahres Geschlecht entdecken könnten. Achill fühlt sich wie ein wildes Fohlen, dem der Zaum angelegt und ein Sattel aufgelegt wird. Seine ursprüngliche (männliche) Freiheit ist beschnitten und kann diese neue, weibliche Rolle nur als Einengung empfinden. Die Forderungen von Thetis lassen sich jedoch nicht so leicht in einigen Stunden internalisieren. Vor allem mit dem Gang, der Kontrolle seiner Augen und der Handhabung der Kleider hat Achill seine Schwierigkeiten. Die Szene ist so plastisch gestaltet, dass man Thetis förmlich korrigieren hört:

niht alsô wildeclîche tuo!
var und wirp gefuoge!
niht ûz dem wege luoge
und lâ dîn umbekapfen!
mit lîsen fuozstapfen
ganc für dich tougen unde slîch!

[27] Thetis Anweisungen finden sich vor allem in den Versen 14980–15135.

diu cleider edel unde rîch
trag vorne mit der hende enbor,
daz si niht hangen in daz hor. (Vv. 15127–36)

Doch gut Ding braucht Weile und so stellt Thetis die neugeschaffene Jocundille nicht nur als Achills Schwester, sondern nach ihrer Wesensart als Amazone dem König von Skyros vor. An seinem Hof soll Jocundille (eine neue Identität bringt einen neuen Namen mit sich) endlich vollendete weibliche Sitten lernen (Vv. 15231–35). Diese Verhaltensweisen werden schließlich von Achill-Jocundille so perfektioniert, so dass er/sie nur durch eine List von den Griechen entdeckt und als Kämpfer rekrutiert werden kann.[28]

Diese so humorvoll gestalteten Verse zeigen Thetis als liebende und lehrende, jedoch auch sich gegenüber ihrem Sohn durchsetzende Mutter und Trägerin der elterlichen Gewalt. Dennoch kann sie ihr zunächst widerstrebendes und dann doch gehorsames Kind Jocundille-Achill zuletzt nicht vor dem Krieg und damit seinem Tod bewahren, aber seinen Tod hinauszögern. Der Trojanische Krieg nimmt seinen Lauf, gleichzeitig wird durch diese Szenen die Bedeutung der Minne und ihrer Macht in Achills Leben angekündigt und macht verständlich, warum ihm seine Liebe zu Polyxena zum Verhängnis werden kann. Sein von Minne und Kampf geprägter Charakter lässt ihn gerade in der Liebe Grenzen überschreiten, zuerst die des Geschlechtes, dann diejenige zum Feind.

Herbort von Fritzlar. Die Tochter als Instrument für politische Ziele

In dem in den 90ger Jahren des 12. Jahrhunderts entstandenen *liet von Troye* Herborts von Fritzlar, das 18458 Verse umfasst,[29] wird die trojanische Königin als Mutter vieler Töchter gezeigt. Diese weisen alle die besten Attribute auf. Sie sind schön, sittsam, keusch und züchtig.

Von der mütterlichen Einfluss-Sphäre gelöst ist vor allem Kassandra, die göttliche Seherin, die durch ihre religiöse Sendung der Mutter entzogen ist und dieser auch den Gehorsam verweigert. So lässt sie sich auch nicht durch die Aufforderung der

[28] Achill zeigt sich somit als Mädchen nach außen hin perfekt den höfischen Verhaltensweisen angepasst, die ideales adeliges Normverhalten aus der Perspektive männlicher Sicht repräsentieren. Dieses wird auch in der Realität erstrebt, wie auch die Hinweise bei Thomasin von Zerclaere zeigen. Das von Achill ursprünglich intuitiv empfundene Eingezwängtsein bei der Übernahme der weiblichen Rolle weist auf eine große Differenz des Rollenverhaltens und den eingeschränkten Spielraum der Frauen in der Gesellschaft hin. Die feine Kritik Konrads besteht darin, die Aussagen über die weibliche Rolle aus der Perspektive Achills und damit aus der eines Mannes zu präsentieren.

[29] Herbort von Fritzlar, *Liet von Troye*, hrsg. von Karl Frommann (Quedlinburg: Gottfried Basse, 1837). Das Werk wird im Folgenden mit *LT* abgekürzt.

Mutter beirren, ihr alle irritierendes Warngeschrei aufzuhören, als Helena in Troja eintrifft (*LT* 2770–2776). Dieses nicht gesellschaftskonforme Verhalten bildet keine Ausnahme.[30] Dennoch verbindet sie mit dem adeligen Attribut der Schönheit auch (prophetische) Weisheit (*LT* 1694–95) und Tugend (*LT* 3269), ebenso Mut und Selbstbewusstsein. Wenn auch der vornehme Panthus in der Ratsversammlung der Fahrt des Paris nach Sparta sehr skeptisch gegenübersteht, so ist doch Kassandra die einzige, die sich offen gegen die Abfahrt von Paris und damit auch gegen den König stellt, indem sie das Unheil, das diese Fahrt bringen wird, unverhohlen ankündigt (*LT* 2316–30).[31]

Die Beziehung zur Mutter scheint sich sehr lose zu gestalten. Dennoch ist es neben dem Seher Helenus auch Kassandra, die für das Leben ihrer Mutter Hekuba bittet und der es damit vorerst einmal gelingt, ihren drohenden Tod und auch den der beiden Söhne Hektors zu verhindern (*LT* 16372–75).[32]

Ihre Schwester Polyxena**,** eine wunderschöne Frau, ist ebenso mit wünschenswerten weiblichen Tugenden ausgestattet. Sie ist 'envalt / Semfte kvsch wol gestalt' (*LT* 1712) und die schönste der Töchter des Priamus nach der Aussage Herborts (*LT* 3277–90).[33] Wie für die anderen Frauen ihrer Sippe ist für sie der Tod Hektors ein schreckliches Geschehen, das sie mit lautem Schreien beklagt (*LT* 10636–38). Als ihre Sippe während einer Friedenszeit den Jahrestag des Todes Hektors begeht, den Achill getötet hat, wird Polyxena von Achill wahrgenommen. Er wird liebeskrank und drückt dies auch in einem Minnemonolog aus. Seine Liebe treibt ihn zunächst in die Nähe des Selbstmordes. Eine Heilung davon kann nur durch die Geliebte selbst stattfinden, um die er bei Priamus wirbt. Allein um Polyxenas willen bedauert Achill den Tod Hektors und verspricht, sich bei den Griechen dafür zu verwenden, dass den Trojanern das Land und damit die Herrschaft erhalten bleibe. Gleichzeitig mit seiner

[30] Ein weiteres Mal ignoriert sie nicht nur die Mutter, sondern auch den Vater und setzt ihre Klage- und Mahnrufe fort (*LT* 6185–88). Bei Konrad von Würzburg wird dieses Verhalten nicht so tolerant hingenommen. So wird das lästige Mahngeschrei Kassandras anlässlich der Bestattung des Königssohnes Casiliân schließlich gewaltsam beendet, indem man sie in einen Turm sperrt (Vv. 38921–25).

[31] Die weise Kassandra erkennt als einzige auch die Ursache, warum Apollo ein an ihn gerichtetes Opfer nicht annimmt (*LT* 15817–39). Ihr Mut und ihre prophetische Begabung zeigen sich auch darin, dass sie den siegreichen Griechen Unheil verheisst (*LT* 16773–99).

[32] Kassandra wird bei Herbort von Fritzlar auch mit der Sibylle gleichgesetzt (*LT* 3271), die von der Menschwerdung Christi weiß (*LT* 1696–1708). Von christlicher Seite erfolgte eine Identifizierung der Tiburtinischen Sibylle mit Kassandra, der Tochter Königs Priamos und Hekubas, siehe dazu Oracula Sibyllinia, *Sibyllinische Weissagungen*, griechisch-deutsch, auf der Grundlage der Ausgabe von Alfons Kurfeß neu übersetzt und hrsg. von Jörg-Dieter Gauger (Düsseldorf: Artemis; Zürich: Winkler, 1998), S. 311.

[33] Nach Homer, *Ilias*, 13,365, ist Kassandra die schönste der Töchter von König Priamos, sie ist schön wie Aphrodite 24,699, Homer, *Ilias*, neue Übersetzung, Nachwort und Register von Roland Hampe (Stuttgart: Reclam, 1979).

Werbung sendet er auch eine Botschaft und Geschenke an Polyxena. Auf diese Werbung will König Priamus aus realpolitischen Gründen eingehen, obwohl er Achill als nicht ebenbürtig einschätzt (*LT* 11386–401).[34] Die Bedingung ist, Achill solle die Griechen zum Abzug bewegen. Achill bemüht sich um den Frieden, hält sich zunächst vom Kampfe fern, greift jedoch zuletzt wieder in diesen ein.[35] Dieser Entscheidung geht die Darstellung seines inneren Konfliktes zwischen Kampf und Liebe voraus. Priamus ist enttäuscht über diese 'unstete' (*LT* 13088). Gerade weil das Verhalten Achills als Verrat gegenüber seiner Liebe gesehen werden kann, ist die Verhaltensweise Polyxenas erstaunlich, als Achill verwundet wird. Da Polyxena ihre eigene Liebe zu Achill erkannt hat: 'Mochte der herre genesen / Ich wolde in gerne liep han' (*LT* 13102–03), sendet sie heimlich Achill einen Boten, der ihm ihre Zuneigung gewiss macht. Mit dieser Vorgangsweise, die sie im Bewusstsein begeht, gegen den Willen ihrer Mutter und ihres Vaters zu handeln, stellt sie sich auf die Seite der Feinde. Polyxena und Achill werden somit zum Liebespaar, dessen *minne* alle Grenzen überschreitet und damit von ihrer Allmacht kündigt. Zugleich weist dieses Paar auf die illusionäre Möglichkeit, dass Troja vielleicht nicht untergehen müsste.

Diese Liebe Achills zu Polyxena, die ihm gleichsam zur Todesfalle wird, findet sich schon in den lateinischen Versionen bei Dares (XXX,5–7, XXXIV) und Dictys (III,2,3, IV,10,11)[36] und wird im Trojaroman Benoîts de Sainte-More, der Quelle Herborts, aufgegriffen. Er spielt als erster darauf an, dass Polyxena diese Verbindung nicht unangenehm wäre.[37] Jedoch scheint eine selbständige Erweiterung von Herbort gewesen zu sein, Polyxenas Liebe so deutlich machen. Eine Liebe, die sich auch in der Tat gegen die Wünsche von Mutter und Vater stellt[38] und durch ihre Offenbarung die Heilung Achills bewirkt, der damit neu im Kampf den Trojanern und damit den Verwandten seiner Geliebten schaden kann. Eine Problematik, die auch Achill bewusst wird (*LT* 13111–35).

---

[34] Zur erwähnten Achill-Handlung siehe *LT* 11135–472.

[35] Achill bemüht sich tatsächlich in der Fürstenversammlung seine Vorstellung von Frieden zu propagieren, was ihm jedoch nicht gelingt. So hält sich Achill längere Zeit dem kriegerischen Streit fern, greift jedoch auf Drängen der Fürsten wieder ein, siehe dazu *LT* 11867–70 und *LT* 12993–13002.

[36] Bei Dares (XXXIV) geht der Verrat an Achill von Hekuba aus, bei Dictys IV,10 von Priamus. Dares Phrygius, *De Excidio Troiae Historia*, hrsg. von Ferdinand Meister (Leipzig: Teubner, 1873), Dictys Cretensis, *Ephemeridos Belli Troiani Libri a Lucio Septimio ex Graeco in Latinum Sermonem Translati*, hrsg. von Werner Eisenhut (Leipzig: Teubner, 1958).

[37] Siehe dazu auch Udo Schöning, *Thebenroman-Eneasroman-Trojaroman: Studien zur Rezeption der Antike in der französischen Literatur des 12. Jahrhunderts* (Tübingen: Niemeyer, 1991), S. 279.

[38] Polyxenas Mut geht hier über den Lavinias im Aeneasroman hinaus, die zumindest ihren Vater auf ihrer Seite weiß. Polyxena wird von Konrad auch als 'diu reine' bezeichnet, Konrad von Würzburg, *Der trojanische Krieg*, V. 40312.

Dieses Ausbrechen der Tochter gegenüber dem Willen der Eltern wird jedoch weder in der Fortsetzung von Konrad von Würzburg aufgenommen[39] noch im Göttweiger Trojanerkrieg.[40] In einer entsetzlichen Weise werden beide im Tod vereint. Polyxena, der die Schuld am Tode Achills zugeschoben wird, wird von dessen Sohn Pirrus am Grabe Achills getötet (*LT* 16413–14, 16438–40). Dieser Tod bewirkt einen Wahnsinnsausbruch der Mutter Hekuba,[41] die schließlich an einen Pfahl gebunden und gesteinigt wird.

Hekuba wird bei Herbort eher positiv gezeichnet.[42] Sie ist eine stattliche Persönlichkeit, eine großgewachsene Frau, die auch innerlich über ihr Frau-Sein hinauswächst, daher wird ihr Verhalten auch im positiven Sinn als männliches, als

[39] Polyxena, die bei Konrad von Würzburg fast so schön ist wie Helena (V. 39281), hat auch wie diese Hektor im Kampf mit Achill durch ihren Anblick unterstützt (Vv. 39604–09). Sie begleitet ihren Vater zu Achill, um den Leichnam Hektors zu erbitten. Dabei berührt die Bitte Polyxenas, die sich Achill um des Leichnams ihres Bruders Willen zur Verfügung stellen will, auch Achills Herz. Er entlässt sie jedoch, um sie ehrenvoll zu erlangen (Vv. 41410–26, 42055–59). Als er von Hekuba aus Rache in eine Liebesfalle gelockt wird, weiß er jedoch um die Unschuld Polyxenas (Vv. 43674–953). Auch bei Dictys geleitet Polyxena ihren Vater, der diese Achill anbietet, Dictys, *Ephemeridos Belli Troiani*, III,27.

[40] Keine Gefühle für Achill gibt es bei hier bei Polyxena, Achill wird im Kampf enthauptet. Polyxena nimmt nach dem Tode Achills dessen Haupt und steckt es an einen Schaft und befestigt es within sichtbar, worauf ihr vom griechischen 'kaysser' (V. 19437) Rache geschworen wird. 'Polixenie dü raine / Das blütfarwe hoptt erkoss, / Ir wunne ward unmassen gross. / An ainen schafte, der was lang, / Sy das manlich hoptte schwang: / Dar an trüg sy es mit sinen / Hoch an aine zinnen [. . .] Daz edel hoptt lobes rich / Ward uff gestekett von ir do / Über alles Troye ho' (Vv. 19422–28, 19430–33). Man ist bei dieser Szene etwas an die Gestalt der Judith oder Salome erinnert. Der Erzähler findet sich jedoch auf der Seite Polyxenas, wie er in einem Vorverweis auf die Handlung und ihr Schicksal kund tut. Sie wird zuletzt von Pirrus erwürgt: 'Pillixenna waz sy genannt. / Die wurgtte diere vaige knabe / Dar nach ob sins vatters grabe' (Vv. 17916–18); siehe auch V. 23144. Auch hier gilt Polyxena dem Erzähler als die schönste der Troierinnen (V. 17914), *Der Göttweiger Trojanerkrieg*, hrsg. von Alfred Koppitz (Berlin: Weidmann, 1926).

[41] In ihrer Verzweiflung und Raserei über das Los ihrer Tochter hatte Hekuba noch vor ihrem gewaltsamen Tod einen König der Griechen und zwei 'grefen' zu Tode gebracht (*LT* 16492–94, 16497–500). Durch die Tötung von Männern, obwohl aus Verzweiflung, überschreitet hier Hekuba das in einer männlichen Gesellschaft tolerierte Verhalten einer Frau.

[42] So auch bei Konrad von Würzburg (Vv. 337–45). Im *Gottweiger Trojanerkrieg* liegt der Fall etwas anderes, auch hier wie bei Konrad gibt es eine Verbindung zur Ödipus- und Judassage. Hekuba empfängt mit ihren Töchtern herzlich Helena in Troja (Vv. 13725–29). Höfisches Verhalten zeigen Hekuba, Kassandra und Polyxena beim Empfang Hektors und Piktoriens (Vv. 13342–51), auch wird die Zucht Hekubas und ihre Schönheit gemeinsam mit ihren Töchtern gerühmt, die sich auch in äußerlichem Schmuck zeigt (13290–94). Eine gemeinsame Klage verbindet Mutter und Töchter (Vv. 19235–46). Doch wird Hekubas Tat, da sie Paris aussetzen ließ, als 'valsche[] ger' (V. 11232) und als 'unzuchtte' (V. 11212) bezeichnet. Hektor sieht in der Kindesaussetzung auch eine Schuld von Vater und Mutter (Vv. 11240–41).

'[m]enliche gebere' (*LT* 3247), beschrieben. Ihr sagt man Weisheit und Gerechtigkeitssinn nach (*LT* 3249–50). Somit fordert sie auch im Sinne des trojanischen Volkes Troilus, Aeneas, Anthenor und Polidamas auf, für ihrer aller Leben, für das Land und die êre zu kämpfen (*LT* 7312–17). Dass sie großen Einfluss auf Priamus besitzt, scheint Achill zu vermuten, denn er sendet seinen Boten mit der Werbung um Polyxena nicht zu Priamus, wie man meinen könnte, sondern zu Hekuba, die ihm als Verhandlungspartner geeignet erscheint (*LT* 11271–91). Sie will und muss sich jedoch als vorbildliche Frau und in dieser Position mit ihrem Mann beraten (*LT* 11358–65). Die Zusage Hekubas bzw. auch von Priamus zeigt auch auf der Seite Hekubas den Willen, politische Notwendigkeiten zu sehen und auch ihr Kind, ohne um dessen Gefühle zu fragen, dem Feind zu vermählen. Als Achill seinem Wort untreu wird und wieder in den Kampf eingreift, wird Hekuba von Priamus, der jedoch selbst an dieser Entscheidung mitwirkte, beschuldigt, diesem 'unstete[n]' Mann (*LT* 13088) Polyxena versprochen zu haben. Dieser Vorwurf, der auch als Schuldabschiebung aufgefasst werden kann, erinnert an die Reaktion Adams nach dem Sündenfall: Die Frau gab mir den Apfel.[43] Dennoch weist der Vorwurf auch auf den Einfluss der Mutter hin und beeinflusst vielleicht ihre spätere Rache an Achill.

Als auch Troilus im Kampf fällt, lässt Hekuba die Trauer über ihre bereits toten Kinder in tiefstes Leid und größte Klagen fallen, so dass sie schließlich drei Tage lang fast wie tot ohnmächtig bleibt (*LT* 13378–94). Klage und Schmerz machen sie jedoch in ihrem Leid auch stark (*LT* 14080–96). Der intensive Wunsch sich an demjenigen zu rächen, der ihre Kinder Troilus und Hektor erschlagen hat, lässt sie vor keinem Mittel zurückschrecken. So scheut sie nicht davor zurück, ihre Tochter Polyxena zu instrumentalisieren und als Lockmittel zu gebrauchen,[44] um Achill in eine Falle zu locken, in der ihn Paris töten wird. Diese Handlung initiiert sie völlig selbständig und geheim (*LT* 13441–530). So wird auch konsequenterweise, als Apollo die Opfer der Trojaner wegen des Mordes an Achill nicht annimmt, die Schuld vollständig auf Hekuba gewälzt (*LT* 15834). Zur gleichen Zeit ist jedoch der Verrat an Troja durch Antenor und Aeneas bereits im Gange (*LT* 15598–681). Fürsorge für die Tochter lässt Hekuba im Trubel und im Morden bei der Einnahme Trojas erkennen. Sie verabsäumt es nicht, dem Verräter Aeneas den Schutz Polyxenas anzubefehlen und so für diese zu sorgen (*LT* 16267–93).[45] Dieser Rettungsversuch erweist sich jedoch als Fehlschlag.

Hekuba und ihre Töchter treten häufig gemeinsam auf. So werden sie auch aufeinanderfolgend beschrieben, wobei ihre Beschreibungen allgemein-typisch

---

[43] Siehe dazu Genesis 3. 12: 'Adam antwortete: Die Frau, die du mir beigesellt hast, sie hat mir von dem Baum gegeben, und so habe ich gegessen.'

[44] So verhält sich auch die 'wîse künigîn Ecubâ' bei Konrad von Würzburg (Vv. 43778–84). In der *Ilias* 22,369–60 wird Achill am Skäischen Tor durch Apollo und Paris getötet.

[45] Auch bei Dares vertraut Hekuba Polyxena dem Schutze von Aeneas an, Dares, *De Excidio Troiae*, XLI.

gehalten sind. Die Schönheit ist nur ein Attribut von Kreusa und Polyxena, während Weisheit Hekuba und Kassandra zugestanden werden. Die Einzeldarstellungen verbindet zudem die positive Darstellung der Frauen (*LT* 3244–90). Verschiedene Tätigkeiten zeigen Mutter und Töchter vereint, wie das Salben von Hektors Körper, um seine Wunden zu heilen (*LT* 9207–11). In gleicher Weise zeigen sie sich eins als sie versuchen durch Klagen, Geschrei und Verzweiflungsgesten, Hektor vergeblich vom erneuten Kampf gegen die Griechen abzuhalten (*LT* 9727–42). Hekuba geht in ihrer Klage um Hektor ihren Töchtern voran, die ihr jedoch in der Trauergestik und –stärke nicht nachstehen (*LT* 10571–641). Der Einfluss und die Position dieser starken Frau als Königin wird an den häufigen Reden, die ihr der Erzähler in den Mund legt, gezeigt, während ihre Töchter (mit Ausnahme von Kassandra) meist still bleiben, jedoch durch ihre Erscheinung höfische Schönheit, Zucht und Tugend verkörpern. Insofern zeigen Mutter und Töchter perfektes höfisches Verhalten. Sie agieren gleich dem wenig später von Gottfried von Straßburg deutlich gezeigten Ideal als Sprechende oder Redende je nach ihrer gesellschaftlichen Rolle und Position.[46]

Während Kassandra durch ihre Sehergabe eine gewisse Freiheit schon an sich genießt, durchbricht Polyxena den Gehorsam auch ihrer Mutter gegenüber durch ihre Liebe zu Achill. Ein tieferes Gefühl der Töchter zu ihrer Mutter wird nicht gezeigt, doch werden sie in Harmonie mit der Mutter präsentiert. Der Schmerz und die Liebe der Mutter zu Polyxena und damit stellvertretend zu den anderen Töchtern zeigt sich am deutlichsten in der grenzenlosen Verzweiflung, die Hekuba ergreift, als sie den Tod Polyxenas erleben muss. Betrachtet man Mutter und Töchter unter dem Aspekt der Kontinuität und Diskontinuität ihres Verhaltens, um in den Termini A. M. Rasmussens zu sprechen,[47] so zeigt sich, dass Hekuba von der männlich-dominierten Gesellschaft hoch geachtet wird. Auch ihre Söhne können sich ihrer Autorität nicht entziehen. Wiewohl Hekuba diese Gesellschaftsform respektiert, handelt sie doch auch eigenständig. Diese Frau mit der *menlichen geberde* zögert nicht in einer für sie verzweifelten Situation zwar auch mit Rachegefühlen, doch völlig unabhängig und ohne Wissen ihres Gemahls zu agieren. Ähnlich unabhängig, in gewissem Sinne das Verhalten der Mutter vorwegnehmend und ohne deren Wissen, handelt auch Polyxena in ihrer Liebe zu Achill, die Hekuba unbekannt ist. Das geheime eigenständige Handeln ist sowohl Mutter und Tochter gemeinsam und lässt auf eine Kontinuität in den Verhaltensweisen schließen. Jedoch haben die Konsequenzen aus beiden Handlungen unterschiedlich schwere Folgen. Die Handlung der Mutter führt

[46] 'ir reht was an in beiden / besetzet unde bescheiden. / ir eine gruozte, diu ander neic, / diu muoter sprach, diu tohter sweic. / diz triben die wol gezogen zwô'. Dieses Verhalten bei Hofe zeichnet die junge Isolde und ihre Mutter im *Tristan* aus. Die Stelle bezieht sich vor allem auf das den Frauen vorgeschriebene Verhalten bei einer Begrüßung, kann jedoch überhaupt auf das gemeinsame Auftreten hinweisen, Gottfried von Straßburg, *Tristan*, nach dem Text von Friedrich Ranke neu herausgegeben, übersetzt und mit einem Stellenkommentar von Rüdiger Krohn, 3 Bde. (Stuttgart: Reclam, 1984–89), II (1985), Vv. 11015–19.

[47] Rasmussen, *Mothers and Daughters*, S. 140.

schließlich zum Tod der eigenen Tochter, die Handlung der Tochter, die den Feind, wenn auch unter der Macht der *minne* liebt, zur Schädigung der eigenen Familie und Stadt wie auch zuletzt zum Tod ihres Geliebten. Aus der Perspektive adeligen Idealverhaltens gesehen potenziert sich so gewissermaßen diese Fehlhaltung der Mutter in der Tochter. Zum Untergang Trojas, der durch männliche Verräter geschieht, führt dies jedoch nicht, wohl aber als retardierendes Element zur weiteren Verlängerung des Krieges.

Mutter und Tochterbeziehungen sind im *liet von Troye* im Grunde harmonisch gestaltet. Der mögliche Konflikt mit Polyxena bricht nicht auf, da er geheim bleibt und das öffentliche *triuwe*-Verhältnis nicht gestört wird. Die Sieger verschonen auch die königliche Familie nicht. Kassandra überlebt und wird Agammemnon übergeben. Polyxena jedoch muss sterben, nicht so sehr wegen ihres Ungehorsams, sondern weil sie als Lockvogel von ihrer Mutter missbraucht wurde. So ist es auch der Zorn des Pirrus, des Sohnes Achills, der sich gegen die Unschuldige als Ursache der Schwäche Achills richtet.[48] Pirrus tötet Polyxena, obwohl diese den Verrat an Achill und seinen Tod zutiefst bedauert. So wird an ihrem Tod auch das Unrecht und der Wahnsinn, die einen Krieg begleiten, deutlich. Gleichzeitig scheint mit der geheimen Handlung der Mutter indirekt eine Schuldverschiebung im Roman und damit auch für den Untergang Trojas stattzufinden. Der Mord an Achill, durch eine Vortäuschung ermöglicht, lässt das Kriegsglück der Trojaner sinken und zeigt diese zunächst ohne weitere göttliche Unterstützung.

Willehalm: Die Macht oler Frauen. Rollentausch. Die 'wîse' Tochter wie auch 'tumpe' Mutter

Im *Willehalm* Wolframs von Eschenbach aus dem zweiten Jahrzehnt des 13. Jahrhunderts[49] gibt es neben Gyburc noch weitere drei Damen, die jedoch in ihrem Schatten stehen und sogenannte Nebenrollen einnehmen. Dennoch sind sie für das Epos insofern von Bedeutung, da sich an ihrem Verhalten zu den männlichen Gliedern ihrer Sippe die Harmonie derselben wie auch ihre Brüche zeigen, die — an eben diesem Beispiel gezeigt — auch die drohende Nichtallianz innerhalb des Reiches ankündigen. In der entscheidenden Szene, als Willehalm in Munleun (Laon) um militärische Hilfe für Orange bittet, die allein das Standhalten der Stadt gegen die Sarazenen möglich macht, kommt es zum Streit unter den Verwandten, der beinahe die rettenden Hilfstruppen in Frage stellt. Der tiefere Grund für diese

[48] Am Zorn des Pirrus sind jedoch auch die Furien Megaira, Allekto und Tisiphone beteiligt (*LT* 16403–21).

[49] Zur Datierung des *Willehalm* und zu Hermann von Thüringen als Gönner Herborts von Fritzlar wie auch wahrscheinlich Wolframs siehe Joachim Bumke, *Wolfram von Eschenbach* (Stuttgart: Metzler 1991), S. 10–11, 21.

Disharmonie ist die Ehe Willehalms mit der getauften Sarazenin Gyburc, die ihren heidnischen Mann verlassen hat. Diese Liebe ruft politische Probleme hervor und macht militärische Hilfeleistungen notwendig. An der Ursache, doch auch an der Lösung dieser speziellen Krise in Laon, haben drei Frauen aus drei Generationen Anteil: Irmschart von Pavia, die Mutter Willehalms, Willehalms Schwester, die römische Königin ist, und deren Tochter Alyze.[50]

Ausgelöst wird die Krise bereits, als Willehalm sich in voller Rüstung dem Hof naht. Seine Schwester ahnt einen neuen Kampf, verursacht durch die politisch brisante Ehe Willehalms mit Gyburc, und damit den Wunsch ihres Bruders nach Hilfstruppen.

Die Königin verhält sich abweisend, doch zeigt ihre Ablehnung durchaus auch Argumente, die auf einer realistischen politischen Einschätzung beruhen.[51] Denn durch die Ehe mit Gyburc entstehen ständig weitere Kämpfe mit den Sarazenen, in die das Reich verwickelt wird. Eine Rückgabe Gyburcs an ihre Verwandten würde Frieden schaffen. Gleichzeitig kann die Aussage der Königin ebenso als ihre Ansicht interpretiert werden, bei dem Fall der Kämpfe um Gyburc handle es sich eigentlich um eine Privatangelegenheit ihres Bruders Willehalm. Wie auch immer, die Königin, die eigentlich unter der *munt* ihres Gemahles steht, reagiert nicht sippenkonform hinsichtlich ihrer Blutsverwandten und damit offen so, wie viele bei Hof denken. Sie unterstützt damit das unhöfische Benehmen gegen Willehalm. Erneut bei Hof provoziert Willehalm den König und informiert dabei über die wahren Machtverhältnisse im Reich und seinen Anteil an dem Königtum Ludwigs. Dabei wird deutlich, dass die Königin aus einer mächtigen Sippe stammt, der der Herzöge von Narbonne, die einen Grundpfeiler von Ludwigs Königtum bilden. Als Glied eines solch mächtigen Geschlechtes übt sie auch Einfluss auf den König aus. Als dieser ein Einlenken auf die Wünsche Willehalms zeigt, reagiert die Königin provokant, indem sie gerade Willehalm eine mangelnde Verbundenheit mit seinen Blutsverwandten vorwirft und damit die Großzügigkeit des Königs zurücknimmt.[52] Diese

[50] Diese Passagen finden sich vor allem in dem Abschnitt *Willehalm* 129,6–184,30: Wolfram von Eschenbach, *Willehalm*, Text der Ausgabe von Werner Schröder, völlig neubearbeitete Übersetzung, Vorwort und Register von Dieter Kartschoke (Berlin: de Gruyter, 1989), im Weiteren abgekürzt als *Wh*.

[51] '[Königin:] mich dunket, herre, ich müge wol jehen, / ez si min bruoder Willalm, / der manegen jaemerlichen galm / hat al den Franzeysen / gevrumt mit sinen reisen. / nu will er aber ein niuwez her, / daz gein den heiden si ze wer / vür der küneginne Gyburge minne. / ungerne wesse ich in hinne. / iuwer deheiner kom in vür: / besliezet vaste zuo die tür' (*Wh*. 129,20–30).

[52] '[König:] "ich mac gabe und lehen han, / daz kert mit vuoge an iuweren gewin." / sin swester sprach, diu künegin: / "ouwe wie wenic uns denne belibe! So waere ich diu erst die er vertribe. / mir ist lieber daz er warte her, denne daz ich siner genaden ger"' (*Wh*. 147,6–8). Zur Bedeutung der Verwandten als Berater und Vermittler siehe Dagmar Hüpper, 'Poesie und Recht aus einem Bette: Zu Verhaltensnormen und Umgangsformen in der mittelalterlichen Familie und Verwandtschaft', *Frühmittelalterliche Studien*, 27 (1993), 87–123 (S. 120–21).

übereilten Worte führen zur Eskalation der Situation und beinahe zur Tötung der Königin durch Willehalm:

> die krone er ir von dem houbte brach
> und warf se daz diu gar zebrast.
> do begreif der zornbaere gast
> bi den zöpfen die künegin.
> er wolt ir mit dem swerte sin
> daz houbt han ab geswungen,
> wan daz dar zwischen kom gedrungen
> ir beider muoter Irmschart:
> des wart ir leben da gespart. (*Wh*. 147,16–24)

Die Szene zeigt in beeindruckender Weise die mögliche Gewalt innerhalb der Verwandtengruppe und auch gegen Frauen, wobei Willehalm seine Kompetenzen überschreitet. Selbst ein Züchtigungsrecht würde nur dem Gemahl der Königin, höchstens dem Vater noch zustehen,[53] wie auch insgesamt das Verhalten Willehalms höchst unhöfisch ist und auch vom Erzähler kritisiert wird (*Wh*. 144,12–13). In diesem Moment der Bedrohung erfolgt eine Solidarisierung der Frauen, die in direkter Linie miteinander verbunden sind. Irmschart von Pavia, die mächtige Dame, zeigt ihre *triuwe* und nimmt ihre Pflichten als Mutter gegenüber ihren Kindern und damit auch gegenüber der Tochter wahr. Sie schützt diese, indem sie sich selbst mutig in Lebensgefahr begibt und sich zwischen Willehalm und die Königin stellt.

In unköniglicher Eile, wie ihr von ihrer Tochter Alyze vorgeworfen wird, flieht die Königin in ihre Kemenate (*Wh*. 148,18–23). Von ihrer eigenen Mutter gerettet wird die Königin nun zur Hilfesuchenden bei ihrer Tochter (*Wh*. 148,27–28). Alyze wird von allen geliebt wegen ihres Liebreizes, ihrer Wesensart und ihrem höfischen Verhalten. Daher erscheint sie als die geeignete Person, um Hilfe zu bringen und als Vermittlerin erfolgreich zu sein. Somit verkehren sich die Rollen von Mutter und Tochter. Die Versöhnung gelingt der willigen Alyze durch ihren Charme und ihr perfektes höfisches Verhalten, das den in der Feudalgesellschaft akzeptierten weiblichen Verhaltensnormen entspricht und schließlich das Herz des Onkels zum Schmelzen bringt (*Wh*. 154,20–158,1). In dieser gleichsam ‘verkehrten Welt’ ist es die Mutter, die die Tochter um Hilfe bittet und die Tochter ist diejenige, die *rât* weiß, Weisheit zeigt und ihre Erscheinung gezielt einsetzt. Auch ihre Worte wählt Alyze bewusst, um eine Versöhnung des Onkels herbeizuführen, die es der Königin ermöglicht, ihr feindliches Verhalten zu ihrem Blutsverwandten zu korrigieren. Alyze wird damit zu derjenigen, die den Frieden wiederherzustellen vermag, indem sie um die Versöhnung der Geschwister bittet. Ihre Mädchenhaftigkeit und Reinheit

[53] Zum Züchtigungsrechtes des Familienoberhauptes, das im Frühmittelalter noch bis zur Tötung der Frau bei Ehebruch reichen konnte, siehe Schulze, *Grundstrukturen der Verfassung*, S. 33.

lässt sie als unschuldige Jungfrau erscheinen und rückt sie in die Nähe Mariens. Ähnlich wie Maria zwischen Mensch und Gott, so ist Alyze mediatrix und adiutrix zwischen ihrem Onkel und ihrer Mutter.[54] Schlicht gekleidet, wirft sie sich vor Willehalm auf die Knie und signalisiert damit die Unterwerfung. Für die törichten und unbedachten Worte der Mutter bittet sie um Vergebung und bagatellisiert diese. Schätzt sie vielleicht hier auch aus taktischen Gründen ihre Mutter als *tump* ein, so hat Alyze vor ihrer Mutter, trotz Tadel einen gewissen Respekt[55] und ist ihr gehorsam, indem sie ihrer Bitte um Hilfe nachkommt. Geschickt nutzt Alyze Schlüsselwörter einer patrilinear und höfisch orientierten Gesellschaft, appelliert in diesem Sinne an den Edelmut des Onkels und plädiert für die Frauenehre, die geschützt werden soll. Indem sie sich auch von der Sippe ihrer Mutter definiert, stellt sie sich auf die Seite des Onkels und kann damit besser argumentieren. So soll Willehalm durch die Versöhnung die Ehre der Verwandten wiederherstellen. Klug beruft sie sich bei dieser Bitte auch auf Gyburc und Willehalms Mutter, Irmschart, und versucht so mit diesen 'Autoritäten' Willehalm umzustimmen. Schließlich gelingt es ihr noch, um die Versöhnung zu befestigen, ihre Mutter zu überzeugen, Willehalm durch eine Festkleidung besonders zu ehren, die ursprünglich für den König bereitet war (*Wh*. 173,14–18). So zeigt sich Alyze in ihrer Handlungsweise einerseits um die Ehre der Mutter besorgt, handelt jedoch auch kognatisch orientiert, wiewohl sie väterlicherseits von Karl dem Grossen und damit dem im Hochmittelalter genealogisch vornehmer eingeschätzten Geschlecht abstammt.

Doch hat auch dieses an der Schwelle des mittelalterlichen Erwachsenenseins stehende Mädchen Geheimnisse. Als es zum Aufbruch der Hilfstruppen kommt, nimmt der junge heidnische Held Rennewart von Alyze Abschied, den mit dieser eine innige unschuldige Liebe verbindet (*Wh*. 213,4–28). Diese Liebe kann jedoch nicht nach dem Willen der Mutter oder des Vaters sein, da man Rennewart, weil er sich nicht taufen lassen will, den Umgang mit Alyze verboten hat (*Wh*. 284,17–22). Zudem wird Alyze als das einzige Kind des Königs und somit als Erbtochter präsentiert, was eine Beziehung zwischen den beiden kompliziert macht.

Als starker Charakter zeigt sich die Mutter und Großmutter Irmschart. Sie ist das *menliche wip*, das nicht davor zurückschreckt, ihr Leben für ihre Tochter zu riskieren, oder sich auch für die anderen Kinder gegebenenfalls wie eine Amazone zu wappnen und im Kampf einzusetzen. Sie fügt sich problemlos in ein patriarchalisches System ein, reagiert jedoch rasch dort zu Gunsten der Tochter, wo der männliche Schutz der Frau versagt. Von ihrem Gemahl Heimrich wird sie geschätzt und erweist sich als der ruhende Pol, dem es möglich ist, mit ihren eigenen großen

[54] Zu Maria als mediatrix und adiutrix in der Predigtliteratur im 12. und 13. Jahrhundert, wie etwa bei Bernhard von Clairvaux, siehe Walter Delius, *Geschichte der Marienverehrung* (München: Ernst Reinhard, 1963), S. 160–61.

[55] Sie spricht diese auch als 'vrouwe', Herrin, an, *Wh*. 148,19.

finanziellen Resourcen Hilfstruppen zu rekrutieren.[56] Auf ihre Tochter wirkt sie nicht verbal ein und akzeptiert damit in vollster höfischer Vollendetheit deren Stellung als Königin. Dennoch ist sie bereit, ihre Tochter — falls diese kein sippenkonformes Verhalten zeigen würde — als Person ohne jede Frauenehre zu betrachten (*Wh*. 160,1–16). Diese moralische Wertung ihrer Tochter ermöglicht ihr eine Abgrenzung, falls diese eine Versöhnung mit dem Bruder und damit seine Unterstützung verweigern würde. Den Vermittlungsversuch der Enkelin unterstützt Irmschart, indem sie den günstigen Augenblick nützend Alyze, die ihr in der Treue zu den Verwandten und in dem vollkommenen höfischen Verhalten ähnelt, wiederum zur Königin schickt (*Wh*. 160,2–3), um die Versöhnung zu vollenden.

Obwohl die Königin eine wunderbare Tochter hat, scheint sie jedoch als Mutter und als höfisches Vorbild durch ihr Verhalten zu versagen. Mit dem prädikativen Adjektiv *tump* wird auch ihre Unfähigkeit zur Erziehung angesprochen. Prinzipiell jedoch ist ihre Ablehnung von Willehalms Forderung nicht ganz unberechtigt, da sie auch als Königin und für das Reich spricht, das durch die Privatangelegenheiten ihres Bruders in Mitleidenschaft gezogen wird. Da es sich jedoch bei Willehalm um einen Markgrafen handelt, dessen Niederlage auch die Ehre und Größe des Reiches gefährden würde, erweist sich ihr Verhalten als kurzsichtig. Somit zeigt ihr abweisendes Verhalten zu Beginn der Munleun-Szene, das den Dialog und den Gang der Handlung bestimmen wird, auch ihre Ungeeignetheit für eine herrschaftliche Handlung. Sie illustriert damit die von Thomasin von Zerclaere propagierte Behauptung: ‘man begert ir [=die Frau] nicht zum potentat’.[57] Die provokante Überreaktion Willehalms wiederum weist auf den großen Einfluss, den seine Schwester auf den König ausübt. Durch ihre voreiligen Worte, mit denen sie den schwachen König öffentlich zu bestimmen sucht, bricht sie zudem als einzige aus dem ihr als Frau vorgeschriebenen gesellschaftlichen Rahmen aus.[58] Sie ist jedoch klug genug, sich in Bedrängnis des Rates und der Hilfe der in gesellschaftlichen Dingen versierteren Tochter zu bedienen. Auch in moralischer Hinsicht kann die Königin nicht bestehen. Von Willehalm wird sie desavouiert und ihr ein intimes Verhältnis mit dem heidnischen König Tybalt vorgeworfen. So kommt es auch, dass die Königin allein, obwohl hochadelige Dame, keinen Namen erhält.

Wiewohl die Königin eher negativ gezeichnet ist, kommt es doch zur Allianzbildung zwischen Großmutter, Mutter und Enkelin, die sich auf der

---

[56] Siehe dazu auch *Wh*. 160,20–161,30 und ebenso *Wh*. 323,3–4.

[57] Thomasin von Zerclaere, *Der welsche Gast*, hrsg. von F.W. von Kries, 3 Bde. (Göppingen: Kümmerle 1984–85), I: *Einleitung, Überlieferung, Text, die Varianten des Prosavorwortes* (1984), V. 1456.

[58] Siehe dazu die völlig andere Verhaltensweise von Isolde der Älteren, die eigentlich alle Vorgänge in der Gerichtsszene mit ihrem Gemahl gegen den lügnerischen Truchsessen, abspricht und bestimmt, ja sogar den Zeitpunkt, wann er ihr befehlen solle, zu sprechen. Sie lässt damit ihrem Mann die öffentliche Ehre, *Tristan*, V. 9753.

verwandtschaftlichen *triuwe* gründet. Sie zeigt sich, indem Irmschart einen (Verwandten-)Mord verhindert, der allerdings auch das Ansehen ihres Sohnes gemindert hätte, und indem Alyze die endgültige Versöhnung herbeiführt. Auch die Königin selbst trägt dazu bei und macht durch ihren Sinneswandel und ihre Mitwirkung die Versöhnung mit ihren männlichen Blutsverwandten vollkommen.

Auf Gefühle zwischen den Frauen wird im *Willehalm* kaum eingegangen. Wohl setzt die lebensrettende Tat Irmscharts eine gewisse Zuneigung zu ihrer Tochter voraus oder Alyze wird von der Königin als 'liebiu tohter' (*Wh*. 148,28) bezeichnet, doch werden die Frauen mehr aus der männlichen Sicht (des Liebhabers) beschrieben (*Wh*. 155,9–17).

Handlungsmäßig gesehen könnte die Szene von Munleun auch ganz ohne Frauen stattfinden, denn Willehalm würde — so wie es scheint — die Hilfstruppen auf alle Fälle vom König erhalten. Dennoch erfüllt die Szene eine wichtige poetologische Funktion.[59] Einerseits erhöht sie das Spannungsmoment und lenkt den Blick auf den Verwandtenkonflikt, der jedoch auch repräsentativ für einen Reichskonflikt stehen kann. Auffällig ist dabei die Betonung der Macht und des Einflusses der Kognaten des Königs auf denselben, so dass hier das Bewusstsein von agnatischen und kognatischen Verwandtschaftsstrukturen und den damit verbundenen Verpflichtungen auch im politischen Bereich vorhanden ist. Agnatische und kognatische Strukturen erscheinen hier zumindest einander gleichwertig. In dem im *Willehalm* repräsentierten Reich rückt daher die Verwandtschaft der Frau des Königs stärker in den Vordergrund[60] und die Bedeutung der Frauen und ihrer Verwandten für Entscheidungen im Reich bzw. in der Politik wird dabei sichtbar. Am Beispiel der Königin wird eine Einmischung bzw. ein selbstständiges Vorgehen der Frau im politischen Bereich kritisiert, von dem sie traditionell ausgeschlossen sein sollte. Eine Unterstützung der männlichen Politik und ihrer Positionen wird jedoch positiv bewertet.

Im *Willehalm* wurden die Frauen für das Anleigen des Titelhelden gewonnen, doch theoretisch hätten sich Irmschart und Alyze auch für die Einstellung der Königin entscheiden können, was den Fall von Orange zur Folge gehabt und nicht der Vorlage entsprochen hätte.

---

[59] Wolfram weicht hier von seiner Vorlage, *La Bataille d'Aliscans*, ab, in der die Provokation vom König erfolgt, siehe Bumke, *Wolfram von Eschenbach*, S. 219–18.

[60] Die Bedeutung der Kognaten könnte auch auf die Verwandtschaftverhältnisse von Wolframs Förderer Landgraf Hermann I. von Thüringen hinweisen, dessen Mutter Jutta Claricia eine Halbschwester Friedrichs Barbarossa war. Über die Schwester seines Vaters war der Landgraf auch mit dem König von Böhmen verwandt, schließlich mit dem König von Ungarn durch die Verlobung und Heirat seines Sohnes Ludwigs mit Elisabeth von Ungarn, siehe dazu Manfred Lemmer, *'der Dürnge bluome schînet dur den snê': Thüringen und die deutsche Literatur des hohen Mittelalters* (Eisenach: Warburg-Stiftung, 1981), S. 6, 8, und Liebertz-Grün, 'Rollenbilder und weibliche Sozialisation', S. 46. Liebertz-Grün bezieht die Bedeutung der Kognaten vor allem auf Gyburc.

Epilog

Alle untersuchten Texte wurden von männlichen Autoren und damit nicht aus einer weiblichen Perspektive verfasst. Ihr Personal bildet der feudale Hochadel, dessen Rolle im Mäzenatentum unbestritten ist und dessen Ideale, Verhaltensweisen und Empfindungen die Figuren aus der Perspektive des 12. oder 13. Jahrhunderts reflektieren. Die Frauen, besonders die hier betrachteten Mütter und Töchter erfahren eine vor allem positive, jedoch auch negative Zeichnung, die sich insgesamt aus ihrer Beziehungsstruktur zu den ihnen gesellschaftlich übergeordneten männlichen Figuren ergibt. Ein besonderer Faktor dabei bleibt die zumindest offizielle Unterordnung der Frau, die die *êre* des Mannes garantiert und nicht antastet, wie auch seine Übereinstimmung mit ihm,[61] eine Haltung die von der Königin im *Willehalm* vorerst nicht beachtet wird. Auch die Figur des *menlichen wip* ist positiv besetzt, jedoch nicht dort, wo der Partner dominiert werden soll oder Handlungen ohne das Einverständnis des Partners erfolgen, wie etwa das Beispiel von Hekuba zeigt. Insofern zeigt sich auch eine gewisse Aufteilung von Aufgaben im hochadeligen Bereich, wo die Frauen auch an politischen und herrschaftlichen Aufgaben teilnehmen, jedoch untergeordnet und im Sinne des *muntwalt* agieren sollen. Die Brüchigkeit dieses Ideals, die durchaus auch in der Realität anzutreffen war,[62] wird in den Epen vorgeführt. Frauen, die diesem Ideal zuwider handeln werden somit zum negativen Exemplum für die Rezipienten. Die Epen können damit auch unter dem Aspekt einer Restaurierung und Propagierung eines idealen adeligen Rollenverhaltens gesehen werden.[63]

---

[61] Ein ideales Beispiel für diese Haltung gibt Königin Isolde die ältere, die eigentlich den Ablauf der Gerichtshandlung gegen den verleumderischen Truchsessen bestimmt. Sie führt Regie im Hintergrund, jedoch der König leitet die Verhandlung offiziell, Gottfried von Straßburg, *Tristan*, I (1987), Vv. 9729–54.

[62] In Europa bekannt war das Beispiel von Leonore von Aquitianien, Régine Pernoud, *Königin der Troubadoure: Leonore von Aquitanien* (München: dtv, 1979), S. 131, 142–43. Die Unterordnung der Frau konnte auch religiös begründet werden, indem man die Stellen der christlichen Bibel, die auf die Gleichberechtigung von Mann und Frau zielten, beiseite ließ. Als Argumente für die Unterordnung der Frau und als Potential für eine mögliche Misogynie erwiesen sich als geeignet: die Erschaffung Evas aus der Rippe des Mannes (Genesis 2. 22), die mit dem Erstgeburtsrecht des Mannes in Verbindung gebracht wurde, oder die Vorstellung von der Frau als Abglanz des Mannes (1 Korinther 11. 7–9). Ebenso sollte die Frau nicht lehren oder über den Mann herrschen (1 Timotheus 2. 12–15), Angenendt, *Geschichte der Religiosität im Mittelalter*, S. 262–63.

[63] Dies könnte auf eine leichte Verschiebung der Machtverhältnisse zugunsten der Frauen deuten. Liebertz-Grün weist auf das weibliche Erbfolgerecht auch bei Lehen im deutschen Sprachraum hin, das bei einigen Fürstenfamilien im 12. Jahrhundert bereits bestand. Das Angebot Heinrichs VI., Reichslehen unbeschränkt erblich zu machen, führte auch zur Stärkung der Position der Töchter, Liebertz-Grün, 'Rollenbilder und weibliche Sozialisation', S. 46.

Die Beziehung zwischen Müttern und Töchtern erscheint dabei relativ eng, da sie häufig gemeinsam auftreten. Im Idealfall gibt die Mutter die Werte des Partners, des Vaters an die Tochter weiter, der meist über sie mit der Tochter kommuniziert. So wird häufig kein direktes Gespräch oder nur wenig direkter Kontakt zwischen Vater und Tochter in den Epen deutlich.

Abgesehen davon, dass in allen erwähnten Darstellungen die Frauen letzlich eine patriarchalisch geprägte Gesellschaft unterstützen, werden doch in den drei Beispielen die vielfältigen Möglichkeiten und Hinweise auf eine Mutter-Tochter Beziehung sichtbar. Die Mutter erweist sich als Beschützende, Lehrende bzw. Erziehende, jedoch auch als der Korrektur bedürftige. Die Töchter zeigen sich — wenn auch bisweilen widerstrebend dargestellt — meist im Gehorsam zur Mutter, jedoch auch in der Rolle der Weisen und damit der Lehrenden. Diese Beziehung Mutter-Tochter orientiert sich jedoch oft auch an den Vorlagen bzw. poetologischen Bedürfnissen. So ist ohne die List Hekubas, keine Schuldzuschreibung an Polyxena beim Tode Achills möglich. Die Beziehung zwischen Mutter und Tochter gestaltet sich in den erwähnten Fällen zumeist positiv. Zur Katastrophe kommt es nur dort, wo eine Tochter allein für die Zwecke der Mutter eingesetzt wird, wie es bei Polyxena der Fall ist. Die häufige Abdrängung der Mütter und Töchter in Nebenszenen, die sich jedoch im Nachhinein oft als Schlüsselszenen (auch für Charaktere) erweisen können, kann jedoch nicht ganz den Eindruck verwischen, dass in diesen Allianzen auch ein gewisses (vielleicht sogar für patriarchalisch geprägte Gesellschaften bedrohliches) Machtpotential wirksam wird,[64] das Unvermeidliches verzögern und Korrigierbares in die rechte Richtung lenken kann.

[64] Nach Stiller weisen auch die immer wieder in den Texten ausgeführten Gegensatzpaare wie junges Mädchen und alte Frau auf die ‘Furcht männlicher Autoren vor einer Mutter-Tochter-Dyade’, zitert nach Kraft, ‘Töchter, die keine Mütter werden’, S. 37.

Mélusine: Ideal Mother or Inimitable Monster?*

TANIA COLWELL

Introduction

The *Roman de Mélusine* was commissioned by Jean, the duc de Berry, in the 1390s. A tale of the *merveilleux*, it is widely understood as a text intended to substantiate the Duke's claims to Poitou at a time when the English monarchy sought to reclaim the region during the Hundred Years' War. Mélusine, the fairy ancestress of the formidable medieval Lusignan family with whom the Duke sought to align himself, has been the subject of a number of essays exploring her status as a fertile mother and/or serpentine monster.[1] Although critics often acknowledge the ambivalence between the Christian maternal and demonic monstrous characteristics inherent in Mélusine's character, scholars frequently try to establish the predominance of one of these features in order to characterize her as more essentially Christian than demonic or more demonic than Christian.[2] Interesting as these studies are, attempts

* I gratefully acknowledge the assistance of the Australian Academy of the Humanities' Publications Committee which has supported the inclusion of illustrations in this paper. I would also like to thank Dr John Tillotson and Dr Stephanie Tarbin for their comments upon an earlier version of this essay.

[1] Laurence Harf-Lancner has written prolifically on the subject of the duc de Berry's desire to establish Lusignan and Poitou as French lands during the second half of the fourteenth century. See *Les Fées au Moyen Age: Morgane et Mélusine. La naissance des fées* (Geneva: Slatkine Reprints, 1984), and 'Littérature et politique: Jean de Berry, Léon de Lusignan et le Roman de Mélusine', in *Histoire et littérature au Moyen Age*, ed. by Danielle Buschinger (Göppingen: Kümmerle-Verlag, 1991), pp. 161–71. See also more recently Françoise Autrand, *Jean de Berry: L'Art et le pouvoir* (Paris: Fayard, 2000), pp. 146–50.

[2] For a study of the text's attempt to privilege Mélusine's Christianity, see for example Jane H. M. Taylor, 'Melusine's Progeny: Patterns and Perplexities', in *Melusine of Lusignan: Founding Fiction in Late Medieval France*, ed. by Douglas Maddox and Sarah Sturm-Maddox

to reduce the heroine to the one or the other determining trait deny the modern reader the opportunity to explore the complexity underlying Mélusine's construction. In contrast, this essay proposes that Mélusine's maternal and monstrous elements are not alternate but, rather, interconnected attributes of her character, the juxtaposition of which would have been accepted by medieval readers.[3] I suggest that in order to understand the interrelated nature of these qualities, we should consider Mélusine in terms beyond both the maternity and fertility she so amply represents as well as the monstrosity which is usually understood to problematize that very maternity.

From the beginning of the *Roman de Mélusine*, there is a tension between the Christian maternal and the monstrous ideologies which frame the narrative. As punishment for an earlier misdeed, Mélusine is cursed to absent herself from her husband, Raymondin, to transform into a semi-serpent every Saturday. Despite Mélusine's exceptional material and biological contributions to their marriage, Raymondin betrays a taboo that he should never look at her on Saturdays. Eventually accusing her of being a demonic serpent, he forces her to live in exile from her family as a fully transformed serpentine figure before remorse and Christian enlightenment lead him to enter a Benedictine hermitage.

The paradox which arises from the competing and ostensibly incompatible ideologies framing the *Roman de Mélusine*, Christian maternity and demonic monstrosity, is itself the key to understanding how these characteristics work together in the heroine. Rupert T. Pickens has investigated the use of paradox in the romance and argues that its author, Jean d'Arras, employs the concept 'as a means to knowledge and the perception of transcendent truth'.[4] The author's association of the marvellous and the fairy with 'truth' is clearly expressed in the prologue: 'Et croy que les merveilles qui sont par universel terre et monde sont les plus vrayes, commes les choses dictes faees' (2; 'And I believe that the marvels which are found throughout the world are the truest things, just like those things that are called fairy').[5] D'Arras then goes on

(Athens: University of Georgia Press, 1996), pp. 165–82. In contrast, Anne Berthelot emphasizes the demonic nature of Mélusine's monstrosity in 'Le Merveilleux dans le *Roman de Mélusine*', in *Mélusine: Actes du colloque du Centre d'Etudes Médiévales de 1'Université de Picardie Jules Verne, 13 et 14 janvier 1996*, ed. by Danielle Buschinger and Wolfgang Spiewok (Griefswald: Reineke-Verlag, 1996), pp. 1–16. An anthropologically informed 'negative' perspective is offered by Gabrielle Spiegel who considers the monstrosity of Mélusine and her children in terms of the social crisis and instability represented by their hybrid bodies: 'Maternity and Monstrosity: Reproductive Biology in the *Roman de Mélusine*', in *Melusine of Lusignan*, ed. by Maddox and Sturm-Maddox, pp. 100–24.

[3] For this view of medieval readers, see Sarah Sturm-Maddox, 'Configuring Alterity: Rewriting the Fairy Other', in *The Medieval Opus*, ed. by Douglas Kelly (Amsterdam: Rodopi, 1996), pp. 125–38.

[4] Rupert T. Pickens, 'The Poetics of Paradox in the *Roman de Mélusine*', in *Melusine of Lusignan*, ed. by Maddox and Sturm-Maddox, pp. 48–75 (p. 50).

[5] References from the romance will be drawn from Jean d'Arras, *Mélusine: Roman du XIV^e siècle, publiée pour la première fois d'après le manuscrit de la Bibliothèque de 1'Arsenal*, ed.

to cite the authority of Aristotle and St Paul who believe that the marvels of the visible world are directly associated with the mysteries of God's invisible world. These points serve a twofold purpose. On a narrative level, they allow d'Arras to ground his fantastic tale legitimizing Berry's claims to Poitou within a context of Christian truth. Secondly, as Pickens explains, d'Arras's discourse on the nature of truth and its relationship to both visible marvels (including fairies) and God's unseen world encourage the reader to believe that while one cannot comprehend God's intentions on a cognitive level, by contemplating the marvel one may attain a higher level of Christian understanding or truth (2–3).[6]

The medieval concept of the marvel as a sign which can paradoxically lead to a state of Christian truth has informed the present study of Mélusine's maternity and monstrosity. In order to explore the interdependent nature of these important qualities in the heroine, the following essay will be divided into three sections. The first will examine Mélusine's motherhood within the context of the Christian model of maternity exemplified by the Virgin Mary. A study of medieval scientific and moral perspectives on Mélusine's monstrosity will follow. The third section will return to medieval philosophies of paradox to argue that not only is there a close relationship between the heroine's monstrous and maternal qualities: they also paradoxically work together on a metaphysical level to nurture her husband towards a state of Christian enlightenment.

The prose *Roman de Mélusine* survives in ten medieval manuscripts.[7] For convenience, I have used Louis Stouff's printed edition of Bibliothèque nationale de France, Arsenal MS 3353, which is also the oldest of the remaining manuscripts. This manuscript dates from *c*. 1420–30 and derives from the north of France.

The Virgin, Mélusine, and Ideal Maternity

Conceptions of ideal motherhood, like the practice of motherhood itself, are not static notions divorced from the historical context in which the mother and child live. As Clarissa Atkinson and others have observed, ideologies of motherhood change in response to social, religious, and even scientific developments.[8] Nonetheless, from

by Louis Stouff (Geneva: Slatkine Reprints, 1974). Page references will be provided in the text. All translations from French into English are my own. I would like to thank James Grieve for his assistance with some of the translations.

[6] Pickens, 'The Poetics of Paradox', pp. 52–53.

[7] For brief details of these, see Laurence Harf-Lancner, 'Le Serpent et le sanglier: Les Manuscrits enluminés des deux romans de *Mélusine*', *Le Moyen Age: Revue d'histoire et de philologie*, 101 (1995), 65–87 (p. 68 and n. 9).

[8] Clarissa Atkinson, *The Oldest Vocation: Christian Motherhood in the Middle Ages* (Ithaca: Cornell University Press, 1991), p. 244; Shulamith Shahar, *Childhood in the Middle Ages* (London: Routledge, 1990), p. 74; and John Carmi Parsons and Bonnie Wheeler, 'Introduction:

the twelfth century onwards, western European cultures considered the Virgin Mary as the archetypal mother who provided the model upon which secular constructions of motherhood were based.[9] While Caroline Walker Bynum has shown that some monastic thinkers, male and female, perceived Mary's son Jesus to be the perfect spiritual mother, the proliferation of images and statuary depicting Mary cradling Jesus in her arms suggests that it was this human, female mother to whom lay women were directed for guidance by the Church.[10] Although Mary's unique virginal and sinless labour contributed significantly to monastic male acceptance of her power as a maternal symbol, a major element of her role as a human Christian mother, one which connected her to historical mothers, is, of course, her love.[11] Mary's love for her son and, by extension, Christian humanity is most clearly manifested in her roles as nurse, teacher, sufferer, and intercessor or comforter/healer of others.[12] These roles were closely related and they provide a framework within which to explore the ideal nature of Mélusine's maternity.

To appreciate the relevance of the Marian model of motherhood to Mélusine's embodiment of maternal qualities, we can turn to the teachings of Juan Luis Vives. Vives wrote for Catherine of Aragon in the sixteenth century and thus drew on secular and theological traditions which, over the preceding centuries, had merged ideals of Marian maternity with the notion of the Virgin as Christ's bride.[13] Influenced by these ideas, Vives described the ideal Christian mother as 'Mere, nourrice, maistresse & mieulx aymee' ('Mother, nurse, mistress, and most beloved').[14] Atkinson has observed that the 'blending of erotic and maternal characteristics, and of the roles of bride and mother, was a vital element in the construction of medieval Mary and in her contribution to Christian ideologies of motherhood' in the Middle Ages.[15] This merging of the erotic with the maternal recalls the ideal of the distant

---

Medieval Mothering, Medieval Motherers', in *Medieval Mothering*, ed. by John Carmi Parsons and Bonnie Wheeler (New York: Garland Publishing, 1996), pp. ix–xviii (pp. ix–x).

[9] Doris Desclais Berkvam, *Enfance et maternité dans la littérature française des XII^e^ et XIII^e^ siècles* (Paris: Champion, 1981), p. 137.

[10] The seminal work on the subject of Jesus's maternal qualities is by Caroline Walker Bynum, *Jesus as Mother: Studies in the Spirituality of the High Middle Ages* (Berkeley: University of California Press, 1982). See Penny Schine Gold for medieval monastic debates about women's ability to imitate the maternal ideal established by the Virgin in *The Lady and the Virgin: Image, Attitude, and Experience in Twelfth-Century France* (Chicago: Chicago University Press, 1985), pp. 68–72.

[11] Atkinson, *The Oldest Vocation*, p. 115.

[12] Ibid., chaps 4 and 5.

[13] Ibid., p. 110; Gold, *The Lady and the Virgin*, pp. 58–59.

[14] Jehan Loys Vives, *Livre de 1'institution de la femme chrestienne tant en son enfance que mariage et viduité, aussi de 1'office du mary* (Geneva: Slatkine Reprints, 1970), p. 237.

[15] Atkinson, *The Oldest Vocation*, p. 110.

but courtly lady in whom Julia Kristeva sees a parallel with the Blessed Virgin herself. Acknowledging the carnal and thus non-Marian nature of courtly love, Kristeva suggests that 'even in its carnal beginnings courtly love had this in common with Mariolatry, that both Mary and the Lady were focal points of men's aspirations and desires'.[16] Masculine desire for courtly women continued to be an important element of later medieval romances. Marriage with a courtly heroine represented the culmination of a knight's search for identity for, through his wife, the hero could demonstrate his masculine status by fathering children.[17] In this respect, the maternity and fertility of a wife were essential attributes of the erotic courtly lady in later medieval romance.

While the unique nature of Mary's motherhood was unattainable for human women, both fictional and historical, she nonetheless represented the pinnacle of medieval stereotypes of the perfect woman and mother.[18] Just as Mary was the spiritual model of womanhood, so Mélusine has been understood as a secular fantasy female. Indeed, exploring her status as a mythic ancestress, Jacques Le Goff describes her as 'l'incarnation symbolique' of knightly ambition and desire as a result of her material and biological productivity.[19] As Atkinson points out, no evidence has been uncovered to substantiate a direct connection between medieval constructions of Mary and the courtly lady of romance.[20] Nevertheless, Mélusine's maternal and economic fecundity enable her to become an ideal lady of chivalric romance, a secular status which allows her to be compared with Mary, the spiritual ideal of womanhood and maternity.

To reflect upon Mélusine's fulfilment of the maternal roles and qualities exemplified by Mary, we will first consider the mother's role as nurse. Images of maternal nursing were popular among visual representations of the Virgin and Jesus during the later Middle Ages. Such images emphasized the tender and intimate nature of

---

[16] Julia Kristeva, 'Stabat Mater', in *The Female Body in Western Culture: Contemporary Perspectives*, ed. by Susan Rubin Suleiman (Cambridge, MA: Harvard University Press, 1986), pp. 99–118 (p. 106). I owe this reference to Atkinson, *The Oldest Vocation*, p. 131. For the connections between the courtly lady of Provençal love poetry and the Virgin Mary in Middle English religious poems, see Monica Brzezinski Potkay and Regula Meyer Evitt, *Minding the Body: Women and Literature in the Middle Ages, 800–1500* (New York: Twayne, 1997), chap. 3.

[17] Michel Zink, 'Le Roman de transition (XIV^{e}–XV^{e} siècle)', in *Précis de littérature française du Moyen Age*, ed. by Daniel Poirion (Paris: Presses universitaires de France, 1983), pp. 293–305; Vern Bullough, 'On Being a Man in the Middle Ages', in *Medieval Masculinities: Regarding Men in the Middle Ages,* ed. by Claire A. Lees (Minneapolis: University of Minnesota Press, 1994), pp. 31–45; Potkay and Evitt, *Minding the Body*, chap. 4, esp. p. 65.

[18] Gold, *The Lady and the Virgin*, pp. 70, 73.

[19] Jacques Le Goff and Emmanuel Le Roy Ladurie, 'Mélusine maternelle et défricheuse', *Annales: E.S.C.*, 26 (1971), 587–622 (p. 601).

[20] Atkinson, *The Oldest Vocation*, p. 131.

Mary's relationship with her son while they simultaneously fulfilled theological and secular prescriptions which typically exhorted the mother, as opposed to a wet nurse, to nurse the child.[21] It was believed that the milk which nourished the baby had been transformed from maternal blood, and it thus passed on the virtues and spiritual qualities of the mother to the child.[22] Maternal nursing was encouraged both for its recollection of Christ and his mother, and also because it was believed to enhance affective bonding between mother and child.[23] While male writers of advice manuals for women such as Vives and the Knight of the Tower recommended maternal nursing for all women, female writers such as Anne de France recognized that in practice, at the higher social levels, feeding a newborn infant was often delegated to carefully chosen nurses. Anne, for instance, encouraged her daughter to 'bien regarder par qui vous les [les enfants] faictes [. . .] nourrir, car ceux-là doivent estre saiges et de honnestes condicions' ('examine carefully those whom you choose to nurse them [the children], for they should be sensible and of respectable birth'), advice which seems to have been informed by the principle of the transfer of virtue between nurse and child.[24]

In much medieval French literature, mothers commonly engaged wet nurses while continuing to feed their children themselves; this is a pattern followed by Mélusine.[25] After three years of marriage to Raymondin, Mélusine had given birth to three sons whose growth astounded onlookers. The narrator explains that 'Melusigne avoit si tres bonnes nourrices, et estoit si tres soigneuse de ses enfans, qu'ilz croissoient et amendoient si fort que chascun qui les veoit s'en donnoit merveille' (78–79; 'Melusine had such good nurses and was so caring of her children that they grew and prospered so much that everyone who saw them was astonished'). Further, it seems that Mélusine shared the nursing duties with her women as she is said to have so nurtured her eldest son, Uriens, that he 'fut grant et fort a merveilles' (80; 'was large

[21] Gold, *The Lady and the Virgin*, p. 66.

[22] Michael Goodich, 'Bartholomaeus Anglicus on Childrearing', *History of Childhood Quarterly: The Journal of Psychohistory*, 3 (1975), 75–84 (p. 80); Atkinson, *The Oldest Vocation*, pp. 157–58. For the close relationship between blood and milk, see also Joan Cadden, *Meanings of Sex Difference in the Middle Ages: Medicine, Science, and Culture* (Cambridge: Cambridge University Press, 1993), pp. 124, 144. Nursing also held a spiritual significance for many monastic writers, especially women, who considered the blood of Christ at his Crucifixion as the nurturing milk with which he sustained humanity. See Bynum, *Jesus as Mother*, and her *Holy Feast and Holy Fast: The Religious Significance of Food to Medieval Women* (Berkeley: University of California Press, 1987).

[23] D. Alexandre-Bidon and D. Lette, *Les enfants au Moyen Age, V^e–XV^e siècles* (Paris: Hachette, 1998), p. 123.

[24] Anne de France, *Les Enseignements d'Anne de France, duchesse de Bourbonnois et d'Auvergne à sa fille Susanne de Bourbon*, ed. by A.-M. Chazaud (Marseille: Lafitte Reprints, 1978), p. 103; Berkvam, *Enfance et maternité*, p. 47.

[25] Berkvam, *Enfance et maternité*, p. 49.

and amazingly strong'). Mélusine's concern for the maternal nurturing of her children continues after her metamorphosis into a flying serpent. Keeping her promise to care for her two youngest sons, she

> venoit tous les soirs visiter ses enfans, et les tenoit au feu, et les aisoit de tout son pouvoir; et la veoient bien les nourrices, qui mot n'osoient dire. Et admendoient et croissoient les deux enfans si fort que chascun s'en donnoit merveille. (262)
>
> (came to visit her children every night and held them by the fire, comforting them with all her power. The nurses saw her and dared not say a word, and the children prospered and grew so much that everyone who saw them was amazed.)

Just as sons nourished by fairies and sirens became larger-than-life heroes such as Lancelot, Mélusine's children are also influenced beneficially by her supernatural milk.[26] Mélusine is often depicted visually in the manuscripts nursing her sons in either human or semi-human form. As Françoise Clier-Colombani observes from the manuscript iconography, even when Mélusine is illustrated as a semi-serpent in this pose (fig. 1), these images often sympathized with the humanity of the heroine and understated her monstrous characteristics.[27] Clier-Colombani suggests that when such images of Mélusine were created, 'l'image de la vierge elle-même devait être présente aux esprits des artistes médiévaux', and she argues that the Marian image would have been a natural model when considering the nurturing role of the mother in the Middle Ages.[28] In view of the Virgin's influence on other literary mothers such as Herzeloydë, and the positive light Mary's example may have cast upon fifteenth-century manuscript images of the nursing Mélusine, it is conceivable that medieval readers and viewers perceived the heroine as a secular, if admittedly ambivalent, imitator of the Marian model of nursing.[29]

---

[26] Françoise Clier-Colombani, *La Fée Mélusine au Moyen Age: Mythes, images, et symboles* (Paris: Le Léopard d'Or, 1991), p. 72. For a study of similarities between Mélusine and Lancelot's fairy mother, the Lady of the Lake, see Emmanuèle Baumgartner, 'La Dame du Lac et la Mélusine de Jean d'Arras', in *Mélusines continentales et insulaires: Actes du colloque international tenu le 27 et 28 mars 1997 à 1'Université Paris XII et au Collège des Irlandais*, ed. by Jeanne-Marie Boivin and Proinsias MacCana (Paris: Champion, 1999), pp. 181–92.

[27] Clier-Colombani, *La Fée Mélusine au Moyen Age*, p. 74. As there are no images of Mélusine in this nursing pose in the extant manuscripts of the text by Jean d'Arras, fig. 1 has been drawn from a mid-fifteenth-century manuscript of Coudrette's verse redaction of the tale.

[28] Clier-Colombani, *La Fée Mélusine au Moyen Age*, p. 104 ('Medieval artists must have had the image of the Virgin herself in mind').

[29] See Patricia Ann Quattrain, 'The Milk of Christ: Herzeloydë as Spiritual Symbol in Wolfram von Eschenbach's *Parzival*', in *Medieval Mothering*, ed. by Parsons and Wheeler, pp. 25–38.

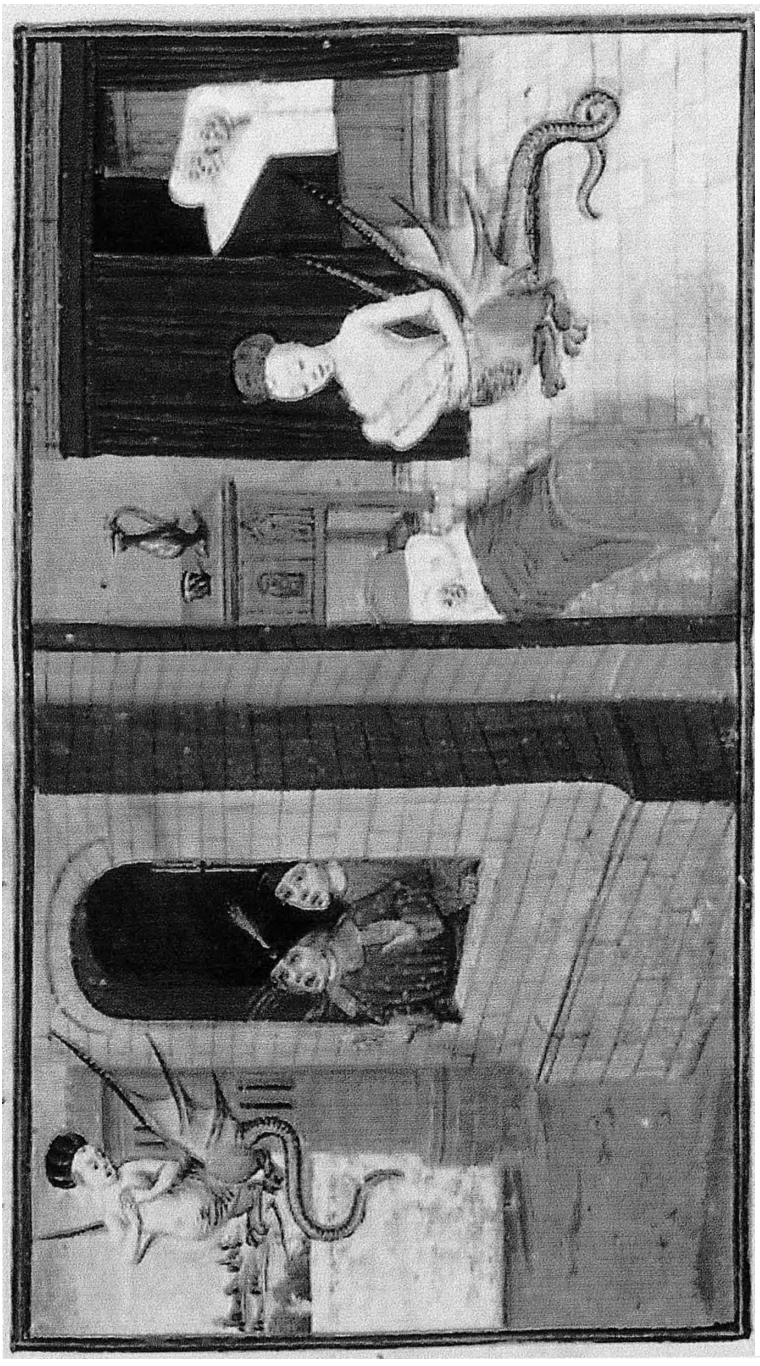


Figure 1. In a semi-monstrous form, Mélusine lovingly cradles and watches over her two youngest sons. (Paris, BNF, MS français 24383, fol. 30r) *Cliché courtesy of the Bibliothèque nationale de France, Paris.*

Marian nursing is closely related to the maternal role of teacher. In the later medieval period, the transfer of maternal virtues through milk was considered a form of moral education. For example, Jean Gerson, in an early-fifteenth-century sermon, explained that maternal nursing should be seen as the beginning of a child's Christian instruction.[30] The Virgin was doubly associated with teaching, both as the obedient child learning at her mother Anne's knee, and in the traditional metaphor of Mary as the Mother Church who, as the mother of Christian humanity, instructs her followers.[31] The relationship between maternal nursing and Christian edification parallels exhortations by such secular writers as the Knight of the Tower, Christine de Pizan, and Anne de France to mothers to be concerned with the moral upbringing of their children. For example, Christine writes that the noblewoman should be concerned with 'ce qui touche discipline de meurs et d'enseignements' ('That which relates to moral discipline and teaching',[32] while Anne advised her daughter that she should 'bien enseigner et apprendre [vos enfants], selon vostre pouvoir' ('Teach and instruct [your children] well, according to your ability'), and carefully outlined a series of appropriate devotional themes.[33] That mothers did, in fact, concern themselves with their children's spiritual condition is well attested by such examples as Dhuoda's early manual for her sons, Joan of Arc's claim to have learnt the paternoster, the Ave Maria, and the Credo from her mother, and Christine de Pizan's moral teachings written for her son.[34]

Mélusine, no less than Christine de Pizan or Anne de France, is admirably concerned with the education of her sons. This is demonstrated in two scenes in which she counsels four of her children prior to their departure for crusade and adventure. In the second of these scenes, declaring to her sons, '"Vous veuil je enseignier et introduire pour vostre bien et advancement"' (152; '"I want to teach and instruct you for your well-being and advancement"'), Mélusine advises her children on a range of devotional, chivalric, and pragmatic themes. For instance, just as Anne de France and Ramon Llull privilege the love of God, the Ten Commandments, and other

---

[30] Atkinson, *The Oldest Vocation*, p. 158.

[31] Ibid., pp. 160–61; Alexandre-Bidon and Lett, *Les enfants au Moyen Age*, p. 102; Marina Warner, *Alone of All Her Sex: The Myth and the Cult of the Virgin Mary*, 3rd edn (London: Vintage Books, 2000), pp. 220–21.

[32] Christine de Pizan, *Le Livre des trois vertues*, ed. by Charity Cannon Willard and trans. into Modern French by Eric Hicks (Paris: Champion, 1989), p. 59.

[33] Anne de France, *Les Enseignements,* p. 103. See also Geoffroy de la Tour Landry, *The Book of the Knight of the Tower, Translated by William Caxton*, ed. by M. Y. Offord, EETS, SS, 2 (London: Oxford University Press, 1971), p. 13.

[34] Alexandre-Bidon and Lett, *Les enfants au Moyen Age*, pp. 72, 111; Christine de Pizan, 'Les Enseignemens moraux: Les Enseignemens que je Cristine donne a Jehan de Castel, mon filz', in *Œuvres poétiques de Christine de Pisan*, vol. III, ed. by Maurice Roy (New York: Johnson Reprint, 1965), pp. 27–44.

articles of the faith in their manuals, so Mélusine begins her two discourses with similar material (84–88, 153; see also fig. 2). She follows this with a wealth of advice along chivalric, financial, political, diplomatic, and, above all, moral themes similar to those dealt with by manuals such as Llull's *Doctrine d'enfant*.[35] Medieval women were often charged simply with the moral education of their children, since fathers, tutors, and members of other courts were generally entrusted with the military and pragmatic training of their sons. Nevertheless, some women, such as Adela of Blois, were also concerned with these aspects of their sons' education, especially when war and politics demanded their husbands' absence from home.[36] Mélusine may be seen as a wise (semi)human mother, imparting not only moral and religious teaching to her children in the manner of Mary and the Church, but sensibly teaching her sons how to behave in the wider context of the secular world.

Just as Marian nursing and teaching were interrelated maternal functions of the Virgin, so too were her qualities as a suffering mother intimately linked with her role as intercessor or comforter of humanity. Mary's quality as Mother of Sorrows and her suffering as a result of Christ's death became focal points for holy medieval mothers' identification with her and her pain, for they believed that the sufferings associated with motherhood would bring them spiritually closer to the Virgin and her son.[37] The symbol of Mary's suffering, her tears, was not merely a physical manifestation of her distress, but gradually came to be understood in terms of purification — they were associated with the purity of the Cross and hence venerated as a symbol of 'cleansing and rebirth'.[38] Perhaps in the belief that Mary's sorrows were a precursor to their own, women as well as men increasingly prayed to the Virgin from the twelfth century onwards to seek the alleviation of pain, sickness, or trouble, and belief in her acts of kindness developed into a strong tradition of miracles.[39]

Similarly to Mary and other historical and literary mothers, Mélusine sheds maternal tears of sorrow when she is separated from her sons. For instance, when her sons Uriens and Guyon fall to their knees in thanks for her permission to seek adventure in the east, 'la dame les redreca, et baisa chascun en la bouche, tout plourant, car

[35] Raymond Llull, *Doctrine d'enfant: Version médiévale du ms. fr. 22033 de la B.N. de Paris*, ed. by Armand Llinarès (Paris: Klincksieck, 1969).

[36] Kimberley Lo Prete, 'Adela of Blois as Mother and Countess', in *Medieval Mothering*, ed. by Parsons and Wheeler, pp. 313–33.

[37] Atkinson, *The Oldest Vocation*, pp. 241 and 192, respectively. Interestingly, the pain and suffering endured by Jesus were key elements in some late medieval female mystics' associations of Christ with maternity. For an examination of these ideas, see Caroline Walker Bynum, *Fragmentation and Redemption: Essays on Gender and the Human Body in Medieval Religion* (New York: Zone Books, 1991), esp. chap. 5.

[38] Warner, *Alone of All Her Sex*, p. 222.

[39] Ibid., p. 199. See also Sr. Mary Vincentine Gripkey, *The Blessed Virgin as Mediatrix in the Latin and French Legend Prior to the Fourteenth Century* (Washington: Catholic University of America, 1938).

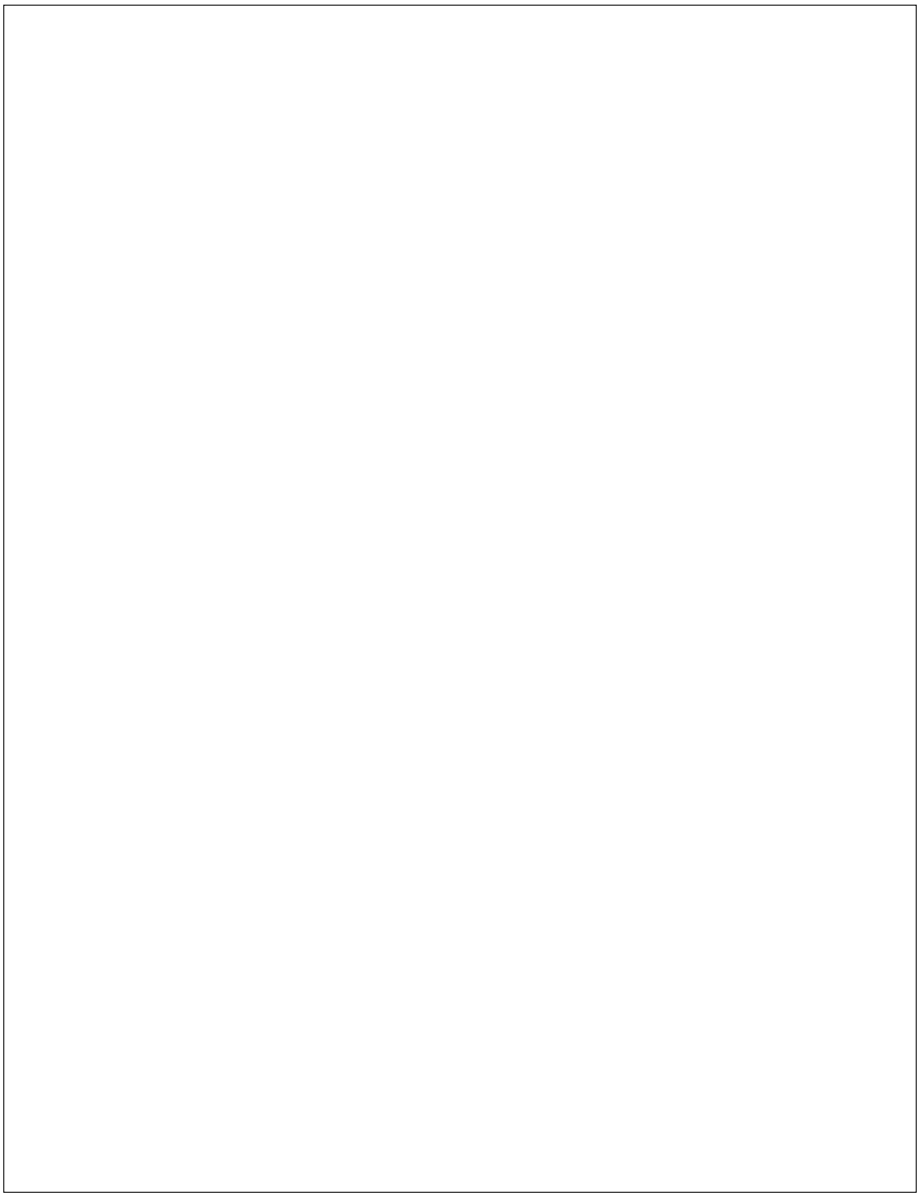


Figure 2. Mélusine's sons are instructed by, and take leave of, their mother.
(Paris, BNF, MS Arsenal Fol. B 955, fol. g ii^{v})
Cliché courtesy of the Bibliothèque nationale de France, Paris.

elle avoit grant douleur au cuer de leur departie, car elle les aimoit d'amour de mere, non pas d'amour de fausse nourisse' (83; 'The lady raised them up and kissed each son on the mouth, all the while crying because she had great sadness in her heart at their departure for she loved them with the love of a mother and not the love of an insincere nurse'). Shahar points out that nurses in literature could equally play satirical or serious roles,[40] a fact which seems to have been appreciated by Jean d'Arras who underlines the authenticity of Mélusine's maternal love and sorrow. The heroine's maternal sadness is again evident towards the conclusion of the romance. She appears flying around Lusignan 'en guise de serpent' three days before her husband is going to die when she spies two of her sons watching her sadly from below. We learn that 'quant elle vit ses enfans plourer, si ot grant douleur, et getta un cry grant et si merveilleux [. . .] Et pour lors sembla a ceulx qui la furent qu'elle plourast moult tendrement' (288; 'When she saw her children crying, she felt such great sadness and emitted a great and wondrous cry [. . .] and it seemed to those who were there that she was crying most tenderly'). Mélusine thus expresses the anguish which she suffers as a result of her distance from her sons but, by experiencing such sorrow, she embodies the medieval notion of 'a good mother as a suffering mother [which] was firmly lodged in the ideologies of sanctity and of motherhood'.[41]

Mélusine also fulfils the fourth role we have identified as belonging to medieval conceptions of the Virgin mother, that of intercessor and comforter. There are two levels to her activity in this regard, one which takes place on an earthly plane, while the second occurs on a more spiritual or cosmological level. The first example relates to her husband, Raymondin. At their first meeting, Mélusine promises that '"je suiz, aprez Dieu, celle qui te peut plus aidier et avancier en ce mortel monde, en tes adversitez, et ton malefice revertir en bien"' (25; '"After God, I am the person who can most help and advance you in this mortal world during your times of hardship, and turn your misdeed to good"'). Raymondin promises to abide by the condition that he not seek her out on a Saturday and, leaving Mélusine's side to carry out her instructions, he reflects upon the 'si bon confort [qu'elle] lui avoit donné' (27; 'Such great comfort [which she] has given him'). While this reference to comfort may well refer to emotional succour, its potential spiritual implications are expanded upon in several subsequent passages. Moaning to an absent Mélusine after he has broken his promise, Raymondin first blames 'Aveugle Fortune' for his folly, before groaning:

> 'Las ma tres doulce amie, je sui le faulx crueux aspis et vous estes la licorne precieuse. Je vous ay par mon faulx venin trahie. Helas, vous m'aviez mediciné de mon premier crueulx venin. Or le vous ay je crueusement mery ma foy envers vous, quant je vous ay trayee et menty ma foi envers vous.' (243)

[40] Shahar, *Childhood in the Middle Ages*, p. 58.

[41] Atkinson, *The Oldest Vocation*, p. 193.

> ('Alas, my very sweet love, I am the false, cruel asp and you are the precious unicorn. I have betrayed you with my deceitful poison. Alas, you had healed me of my early cruel venom. But I bitterly fulfilled my oath to you when I betrayed you and broke my promise to you.')

Although the *licorne* or unicorn was a creature typically associated with lust, by the fourteenth century, readers of bestiaries and works such as Philippe de Mézières's treatise on marriage were familiar with its role as a symbol of Christ, the ultimate comforter of humanity.[42] Appropriately, earlier in the romance, Raymondin realizes that Mélusine provides him with more than just an advantageous alliance; in a remark made after his wedding, he acknowledges that she is '"ly sourgons de tous mes biens terriens, et aussi croy je que c'est la voye premiere de 1'ame de moy"' (44; '"The source of all my worldly goods, and I also believe that she is the principal path of my soul['s salvation]"'). In other words, he recognizes that Mélusine will bring him spiritual, as well as material, comfort.

An ostensibly more prosaic example of Mélusine's activity as an intercessor strengthens the view that she acts as her husband's spiritual guide. Seemingly following the advice of Christine de Pizan and the Knight of the Tower who propose that wives should pacify their angry spouses and maintain peace within the family, Mélusine attempts to reconcile Raymondin with his son Geoffroy, who has just murdered one of his brothers.[43] Her rationale for the reconciliation relies on the understanding that such acts are '"incognoissable quant a humaine creature, car les jugemens de Dieu sont si secrez que nul cuer mondain ne les puet comprendre"' (255; '"incomprehensible to human beings for God's judgements are so secret that no worldly heart can understand them"'). Importantly, on hearing this reasoning, Raymondin 'scet bien qu'elle lui dit voir de quanqu'elle lui avoit dit, et que c'est le meilleur selon raison' (255; 'knew well that she spoke the truth in all that she said to him, and that it was the best according to reason'). Despite his recognition of the rational nature and truth of his wife's explanation, anger forces him to behave irrationally and he denounces her publicly as a serpent, the final betrayal which catalyses her metamorphosis and departure. Shortly after Mélusine's disappearance, Raymondin has a revelation in which he recognizes the extent of God's influence on

---

[42] See Philippe de Mézières, *Le Livre de la vertu du sacrement de mariage*, ed. by Joan B. Williamson (Washington: Catholic University of America Press, 1993), Book 2, Chapter 17, and *A Medieval Book of Beasts: Pierre de Beauvais' Bestiary*, ed. and trans. by Guy R. Mermier (Lewiston: Edwin Mellen, 1992), pp. 89–91.

[43] Christine de Pizan, *Livre des trois vertus*, pp. 52–60, and Geoffroy de la Tour Landry, *The Book of the Knight of the Tower*, p. 96. Medieval queens were especially notable for their intercessory role between king and supplicants. For historical and literary discussions of this subject, see John Carmi Parsons, 'The Pregnant Queen as Counsellor and the Medieval Construction of Motherhood', in *Medieval Mothering*, ed. Parsons and Wheeler, pp. 39–61; and Paul Strohm, *Hochon's Arrow: The Social Imagination of Fourteenth-Century Texts* (Princeton: Princeton University Press, 1992).

his life (269) and, after confessing his sins to the pope, enters a hermitage.[44] While Mélusine follows secular guidelines and a Marian model in her maternal role as comforter and intermediary between the world and Raymondin, there are strong suggestions within the text that she both provides him with earthly comforts and also guides him towards spiritual comfort and knowledge.

Throughout this exploration of Mélusine's motherhood, we have followed a framework of roles epitomized by the medieval Christian's ideal mother, the Virgin Mary. Although the Virgin was considered to be the embodiment of medieval ideals of motherhood and wifedom, the Church generally denied that Mary's exemplary fulfilment of the roles of nurse, teacher, sufferer, and intercessor could be replicated by human mothers.[45] In spite of the Church's insistence on the exceptional nature of the Virgin's motherhood, these maternal roles frequently informed the practical advice for women in the later Middle Ages provided by both male and female writers. Mélusine herself fulfils these roles to such a degree that we may consider her an ideal of (semi)human motherhood who seemingly follows the model provided by Mary. Additionally, her husband, Raymondin, associates the heroine with spiritual nurturing, an activity which again recalls one of the roles fulfilled by the Blessed Virgin. However, any assessment of Mélusine as an ideal mother is ostensibly challenged by the supernatural, monstrous status of the heroine. Before turning to examine Mélusine's monstrous nature in detail, there is one element of the heroine's motherhood which questions her position as an ideal courtly mother — the instruction to kill her son Horrible.[46]

Shortly before she makes her final farewell to Raymondin, Mélusine draws her husband and barons together and advises them:

> 'si tost que je seray partie, que vous faciez tant que [Horrible] soit mort priveement, car sachiez en verité, que il feroit tant de maulx que ce ne seroit pas si grant dommage de la mort de telz xx^{m}. que de la perte que on auroit par lui, car certainement il destruiroit tout quanque j'ay ediffié, ne jamais guerre ne fauldroit ou pays de Poittou ne de Guyenne.' (258)

> ('As soon as I have left, you should ensure that Horrible dies secretly for know in truth that the loss of 20,000 men would not be as great as the damage he will inflict, for he

[44] Raymondin has previously been wont to blame Fortune for his past misdeeds, rather than assigning such occurrences to the will of God as Mélusine does. For example, after killing his uncle, he cries '"Hee, faulse Fortune, comment es tu si perverse"' (22), while after he betrayed and, so he believes, lost Mélusine, he decries Blind Fortune as recorded in the preceding paragraph.

[45] Gold, *The Lady and the Virgin*, pp. 70, 73.

[46] See Taylor, 'Mélusine's Progeny', for the argument that while there are some potentially damaging suggestions that Mélusine may be less than the ideal Christian mother, the implicit threat is usually 'blocked' or eliminated in such a way that it does not challenge the duc de Berry's intent to create a positive, familial link between himself and Mélusine.

> will certainly destroy all that I have constructed and war will never disappear from the lands of Poitou or Guyenne.')

Traditionally, mothers who condoned the deaths of their children were considered to be the worst of sinners.[47] However, it was not uncommon for literary mothers to sacrifice their children for the social good.[48] Further, an anthropological perspective on infanticide suggests that such an act may have been in the best interests of social and familial groups. From this point of view, Spiegel argues that the murder of Horrible is a necessary sacrifice in order to restore the social disruption initiated by Mélusine when she and her sisters contribute to the premature death of their father, King Elinas, by permanently imprisoning him in a cave (12).[49] Anthropologists have also explained this kind of decision in terms of the interests of 'reproductive management'. In other words, the parents involved assess 'the reproductive value of an offspring as part of an overall reproductive strategy' and react accordingly for the benefit of the family.[50] In this respect, Mélusine's maternal concern for the continuance of her lineage and estates, in short, all that she has 'ediffié', is demonstrated by her decision to eliminate the one person who could destroy the foundations of the Lusignan family. Horrible's own socially disruptive tendencies have already been attested to by the fact that he 'fu si crueulx et si mauvais qu'il occist, ains qu'il eust quatre ans, deux de ses nourrices' (80; 'was so cruel and so evil that he killed two of his nurses before he was four years old'), thus challenging maternal authority from an early age. Further, the medieval understanding of his name, Horrible/Orrible, as someone who creates fear, means that 'Le nom et l'être se recouvrant, Orrible sera ontologiquement prédestiné à faire peur'.[51] In this way, Horrible's death, which is often depicted as immolation (fig. 3), represents 'la mise à mort rituelle de l'incarnation du mal'.[52] His death also symbolizes the strengthening

---

[47] Shahar, *Childhood in the Middle Ages*, p. 127.

[48] Berkvam, *Enfance et maternité*, p. 119.

[49] Spiegel, 'Maternity and Monstrosity', p. 114. See also Susan C. M. Scrimshaw, 'Infanticide in Human Populations: Societal and Individual Concerns', in *Infanticide: Comparative and Evolutionary Perspectives*, ed. by Glen Hausfater and Sarah Blaffer Hrdy (New York: Aldine, 1984), pp. 439–62 (p. 440).

[50] Sarah Blaffer Hrdy and Glenn Hausfater, 'Comparative and Evolutionary Perspectives on Infanticide: Introduction and Overview', and Mildred Dickemann, 'Concepts and Classification in the Study of Human Infanticide: Sectional Introduction and Some Cautionary Notes', in *Infanticide*, ed. by Hausfater and Hrdy, pp. xii–xxxv (p. xvi), and pp. 427–37 (p. 430).

[51] Elisabeth Pinto-Mathieu, 'Fromont et Orrible: Deux fils légendaires de la fée Mélusine', in *Mélusine: Actes du colloque*, ed. by Buschinger and Spiewok, pp. 135–48 (p. 135; 'Since the name and the person overshadow each other, Orrible is ontologically predestined to be frightening').

[52] Pinto-Mathieu, 'Fromont et Orrible', p. 142 ('The ritual execution of the incarnation of evil'). See also Spiegel, 'Maternity and Monstrosity', p. 114.

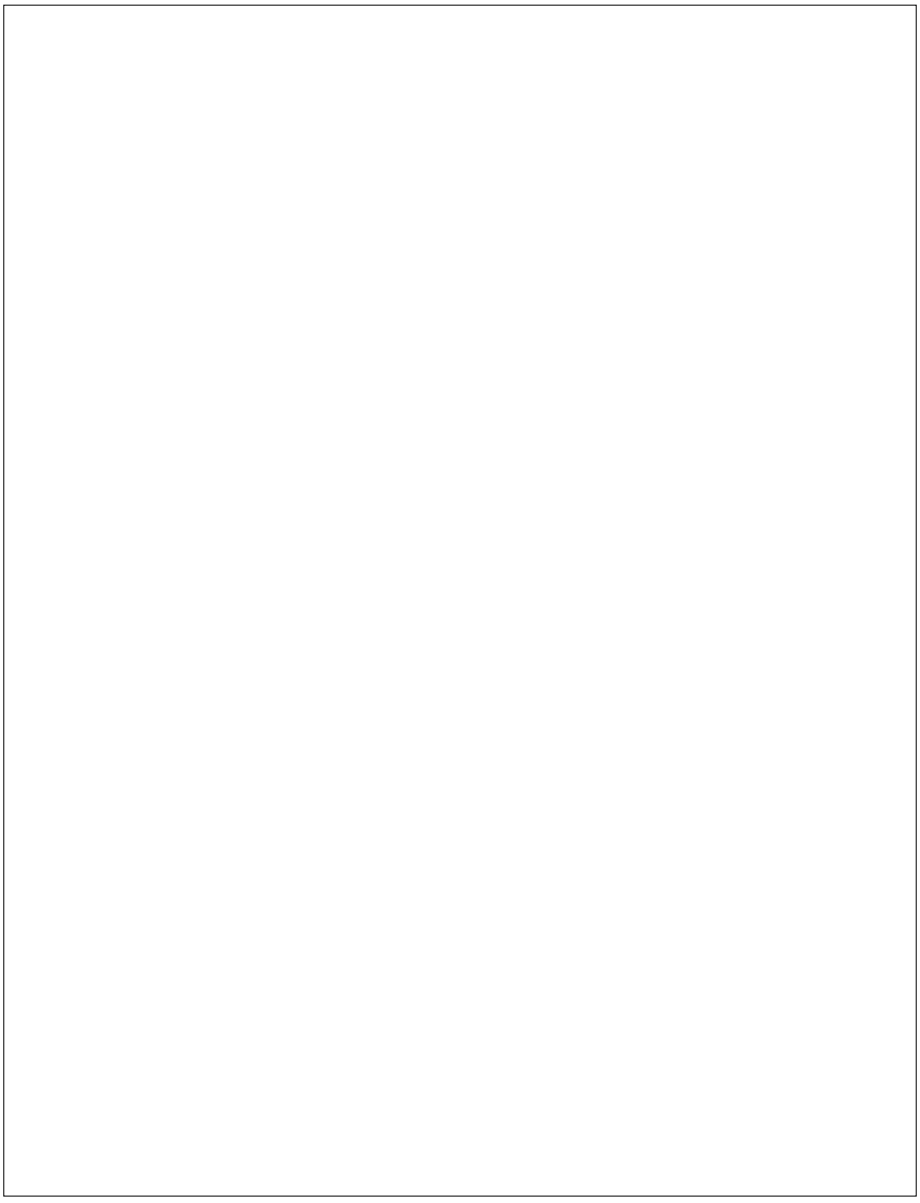


Figure 3. Raymondin watches his son, Horrible, die.
(Paris, BNF, MS Arsenal Fol. B 955, fol. t vii^{r})
Cliché courtesy of the Bibliothèque national de France, Paris.

of family and social order, thus fulfilling one of the social goals of the romance, that is, the 'just' claims of Jean de Berry to the estates of Lusignan and Poitou. In other words, by destroying the internal threat inherent within the Lusignan family, Mélusine, in sacrificing one son, has ensured the continuity of the others, thus showing herself to be a foresighted mother who is concerned for dynastic longevity and social stability.

From a consideration of Mélusine's mothering in relation to the themes of the *Roman de Mélusine*, the heroine appears to fulfil all the roles and qualities exemplified by the ideal Christian mother and wife, Mary. As nurse and teacher, sufferer and comforter, she loves and nurtures her sons and her husband with the result that she creates a great family heritage with which Jean de Berry aligns himself. Even when her maternal actions seem suspect, as when she calls for the death of Horrible, we can understand this in terms of her concern for the continuance of the Lusignan family and Poitevin society. There remains, however, a tension throughout the text between the heroine's embodiment of motherhood and her nature as a hybrid fairy, a woman, and a serpent. It is the monstrous element inherent within Mélusine to which we shall now turn in order to try and explain this conflict.

Mélusine and Medieval Monsters

Monsters in the Middle Ages were frequently identified and defined as such according to their external form.[53] A creature's hybridity or its unfamiliarity to the viewer typically guaranteed that it would be classified as a monster, as is suggested by the thirteenth-century Thomas de Cantimpré who described inhabitants of the Orient as monsters who were 'tout autre que nous ne soumes' ('Very different to us').[54] There was an ongoing debate in the Middle Ages about the nature of monstrous creatures who may have been half-human, half-bestial, or even human with bestial features. Claude Kappler has observed that:

> Le Moyen Age est pris entre la nécessité d'expliquer le 'désordre' que représente le monstre et le besoin de croire au postulat selon lequel la Nature, œuvre de Dieu, ne saurait être que parfaite, donc ordonnée selon une disposition imperturbable.[55]

As Kappler also notes, medieval understandings of 'Nature' were themselves unclear. Thomas de Cantimpré believed that humans, 'par raison', should not display

[53] Claude-Claire Kappler, *Monstres, démons et merveilles à la fin du Moyen Age: Nouvelle édition corrigée et augmentée*, 2nd edn (Paris: Payot, 1999), p. 212.

[54] Cited in Kappler, *Monstres, démons et merveilles*, p. 215. See also Jean Céard, *La Nature et les prodiges: L'Insolite au XVIe siècle* (Geneva: Droz, 1977), p. 46.

[55] Kappler, *Monstres, démons et merveilles*, p. 253 ('The Middle Ages was caught between the need to explain the "disorder" represented by the monster and the need to believe in the postulate according to which Nature, as the work of God, could only be perfect and, thus, ordered according to a balanced disposition').

bestial characteristics or physical disfigurations. Similarly, John Mandeville described the construction and adulation of totems displaying four-headed beasts as symptoms of madness or unreason.[56] In view of medieval conceptions of reason as order and moderation, we can infer that monsters were frequently believed to be found in, or result from, a state of madness, immoderation, and disorder. As Nature was considered the organized, rational realm of God, monsters could thus be seen as the unfortunate product of cosmic disorder and irregularity.

If monsters were often regarded as a consequence of disorder in the relationship between man and nature, Mélusine would appear to be a perfect example of a medieval monster for two reasons. First, Mélusine is condemned by her mother to become a 'serpente du nombril en aval' once a week (13; 'serpent from the navel downwards'). Her husband, Raymondin, spies on her in the bath one Saturday and is struck by the vision of her 'jusques au nombril en figure de femme [. . .] et du nombril en aval [. . .] en forme de la queue d'un serpent, aussi grosse comme une tonne ou on met harenc, et longue durement' (242; 'In the figure of a woman down to the navel [. . .] and from the navel below [. . .] in the form of a serpent's tail, as round as a herring barrel and extremely long').[57] As Spiegel explains, the reason for which Mélusine is thus condemned, parricide, neatly locates her subsequent monstrosity as the product of social disorder. From an anthropological perspective, Spiegel points out that parricide threatens the erosion of social structures which, in a medieval context, are handed down from God.[58] In this respect, not only has Mélusine threatened the structural foundation of her family, but her imprisonment of her father, the King of Albany, potentially threatens the order of the realm. In this way, the heroine's actions, which can be construed as monstrous in terms of their disruption to the divinely organized social structure, have monstrous consequences upon her henceforth hybridized body which she retains even after having restored social order through the symbolic death of her son, Horrible.

While some medieval thinkers considered monsters to be a disruptive influence upon Nature's harmonious order, others considered them manifestations of God's diverse gifts to the world. Such thinkers were doubtless influenced by Aristotle and, later, Isidore of Seville.[59] These thinkers believed that while monsters may have appeared to be contrary to the ordinary course of Nature, they were nonetheless part of the greater realm of Nature by their very existence. Indeed, for Isidore and his intellectual predecessor, St Augustine, since Nature was the creation of God, so too

[56] Kappler, *Monstres, démons et merveilles*, p. 216.

[57] For a discussion of Mélusine's polymorphic body as it relates to the form of the text itself, see Kevin Brownlee, 'Mélusine's Hybrid Body and the Poetics of Metamorphosis', *Yale French Studies*, 86 (1994), 18–38.

[58] Spiegel, 'Maternity and Monstrosity', p. 106.

[59] See John Block Friedman, *The Monstrous Races in Medieval Art and Thought* (Cambridge: Harvard University Press, 1981), esp. chap. 6.

were monstrous creatures.[60] Thus for many thinkers in the Middle Ages, monsters such as Mélusine were natural elements of God's world.

A number of reasons were found in the Middle Ages to explain the existence of monsters which can be described in general terms as scientific or moral, or a combination of both.[61] One explanation put forward by Hildegard of Bingen, and later taken up by Ambroise Paré, was that a mixing of seeds could produce hybrid offspring.[62] This, of course, is an explanation for Mélusine's hybrid nature before she was cursed by her mother. Her mother, Presine, is a fairy who explains to Mélusine that had she and her sisters not imprisoned their father, '"la vertu du germe de ton pere toy et les autres eust attrait a sa nature humaine, et eussiés esté briefment hors des meurs, nimphes et faees, sans y retourner"' (12; '"The strength of your father's seed would have attained its human aspect in you and the others, and you would have been swiftly removed from the world of nymphs and fairies without returning"'). In other words, had Mélusine not contributed to the death of her father, his human seed would have naturally overcome the fairy disposition she inherited from her mother.

In contrast, Mélusine's own children, also the offspring of mixed parentage, retain the humanity transferred to them through their father's seed, while they wear the sign of their hybridity in the form of animal markers or exaggerated features.[63] Douglas Kelly explains this apparent inconsistency by referring to medieval traditions according to which the mother's blood or matter transfers her social status and physical form to the child during conception, which then dominates female progeny, while the father's semen passed on the human nature which then dominated the male offspring.[64] Kelly's reading of medieval reproductive traditions derives from Aristotelian theories of conception as they were understood by medieval thinkers such as Albertus Magnus. Aristotle argued that while the mother passed on matter or the material which contributed to the offspring's body, the father provided the form or

---

[60] Kappler, *Monstres, démons et merveilles*, pp. 207–08; Friedman, *The Monstrous Races*, pp. 115, 121–22.

[61] For various scientific explanations for monsters not discussed here, see Claude Lecouteux, *Les Monstres dans la pensée médiévale européenne* (Paris: Presses de 1'Université de Paris-Sorbonne, 1993), p. 110, and Ambroise Paré's *Des monstres et prodiges*, ed. by Jean Céard (Geneva: Droz, 1971), which drew heavily on medieval teratologies for its theories.

[62] Lecouteux, *Les Monstres dans la pensée médiévale européenne*, pp. 108, 123, and Paré, *Des monstres et prodiges*, chap. 19, 'Exemple de la commixtion et meslange de semence'.

[63] For an interesting study of monstrous offspring and their parents in Middle English literature from a Lacanian perspective, see Jane Gilbert, 'Unnatural Mothers and Monstrous Children in *The King of Tars* and *Sir Gowther*', in *Medieval Women: Texts and Contexts in Late Medieval Britain; Essays for Felicity Riddy*, ed. by J. Wogan-Browne and others (Turnhout: Brepols, 2000), pp. 329–44.

[64] Douglas Kelly, 'The Domestication of the Marvelous in the Melusine Romances', in *Melusine of Lusignan*, ed. by Maddox and Sturm-Maddox, pp. 32–47 (p. 42).

'active principle' which contributed to their nature.[65] In this respect, Mélusine's sons wear their mother's hybridity on the surface of their own skin, while their humanity is acquired from their father. Despite the fact that Raymondin's humanity dominates his sons' nature, from a scientific perspective, Mélusine remains doubly responsible for her children's physical monstrosity: she has not only contributed her own innately hybrid matter to her sons but has also conceived with a non-hybrid, entirely human, creature.[66]

Raymondin unwittingly provides another rationale for the monstrosity of Mélusine and her children when he betrays her for the second time, one which invokes medieval demonological beliefs. Reflecting on the murder of one son by another, he concludes:

> 'Par la foy que je doy a Dieu, je croy que ce ne soit que fantosme de ceste femme, ne ne croy pas que ja fruit qu'elle ait porté viengne a perfection de bien; elle n'a porté enfant qui n'ait apporté quelque estrange signe sur terre [. . .] C'est aucune esperite ou c'est toute fantosme ou illusion qui m'a ainsi abusé.' (253)
>
> ('By the faith that I owe to God, I believe that it is only a trick of this woman's, nor do I believe that any fruit that she has borne will attain perfection. She has not borne a child which has not carried some strange mark onto the earth. [. . .] It is some spirit or magic or illusion which has thus abused me.')

In his rage, he subsequently denounces Mélusine as a '"tres faulse serpente"' ('"Very treacherous serpent"'), declaring, '"par Dieu, ne toy ne tes fais ne sont que fantosme"' ('"by God, neither you nor your offspring are anything other than treacherous spirits"'), later uttering that their son's death was the result of '"l'art demoniacle"' (255; '"the demonic arts"'). Throughout the romance, Mélusine and her actions are frequently described in terms of the *merveil* (marvellous, wondrous, astounding); as Berthelot remarks, the use of the term *fantosme* (marvel, illusion, or lie) to refer to the fairy has a clearly pejorative sense here, and supports the view that Raymondin's interpretation has been influenced by contemporary demonology.[67] Kappler recalls, for example, the medieval belief that physical metamorphosis was the work of the devil. There were two competing explanations for such an occurrence: the first, which corresponds to the views expressed by Raymondin, was that the devil caused the viewer to see an illusion of the said transformation; the second was that the devil gave certain people, usually witches, the power to transform themselves.[68] In terms of these explanations, Mélusine's serpentine form would have

[65] Cadden, *Meanings of Sex Difference*, pp. 117–21.

[66] Spiegel, 'Maternity and Monstrosity', p. 104.

[67] Frédéric Godefroy, *Lexique de l'ancien français*, ed. by J. Bonnard and Am. Salmon (Paris: Champion, 2000); Berthelot, 'Le Merveilleux', p. 2.

[68] Kappler, *Monstres, démons et merveilles*, p. 178; Brian Levack, *The Witch-Hunt in Early Modern Europe*, 2nd edn (London: Longman, 1995), p. 44.

been strongly reminiscent of the Eden serpent for medieval readers, especially with the developing tradition of the serpent possessing a female face.[69] A further demonological explanation for the monstrosity of Mélusine's children is that proposed by Claude Lecouteux who argues that the fairy herself is a succubus, a devil who takes on a human female form in order to procreate with human males.[70] The offspring of such parentage would inevitably bear marks similar to those of the Lusignan sons, and so be characterized as monstrous. Thus Mélusine's own monstrosity can be categorized variously as biological, moral, and/or demonological.

It should, however, be noted that while some medieval thinkers sought scientific or moral reasons behind the existence of monsters, many such as St Thomas Aquinas and Paré recognized that although causality could be ascertained for some monsters, in other cases human reason was not sufficient to comprehend God's intent.[71] God's will, on the other hand, was often the first and last recourse of thinkers trying to understand the function of monsters on the earth. Most frequently, monsters were understood as signs or portents commonly indicating God's displeasure, his meting of punishment, or a sign of the future.[72] Mélusine's monstrosity may indeed be read both as a punishment for her social disorder, and as a portent announcing the death of a Lusignan lord (288). More recently it has been suggested that Mélusine 'appears to act as an agent of divine Providence', particularly when she tells Raymondin that if he trusts her, she will ensure his future prosperity under the auspices of God's will (25–26).[73]

Medieval monsters also functioned as allegories with varying degrees of complexity.[74] According to early medieval thinkers St Augustine and Pseudo-Dionysus, monsters were important didactic tools for teaching about the truth. As John Block Friedman explains, St Augustine understood monsters to be divine miracles and argued that as such, they presented God's will to humankind. Augustine had 'a strong interest in miracles, fostered by a certain hostility toward the validity of sense impressions, and a concomitant belief that the supernatural experience is the greatest conveyer of truth to man'.[75] Augustine's scepticism towards sensory perception was shared by the earlier Pseudo-Dionysus for whom 'God transcends human knowledge utterly and can be known only by what he is not'. For Pseudo-Dionysus, the monstrous serves to challenge 'the adequacy of the intellectual concept of the thing in relation to its

[69] Henry Ansgar Kelly, 'The Metamorphoses of the Eden Serpent during the Middle Ages and Renaissance', *Viator*, 2 (1971), 301–27.

[70] Lecouteux, *Les Monstres dans la pensée médiévale européenne*, p. 111.

[71] David Williams, *Deformed Discourse: The Function of the Monster in Mediaeval Thought and Literature* (Exeter: University of Exeter Press, 1996), p. 325; Céard, *La Nature et les prodiges*, p. 37.

[72] Friedman, *The Monstrous Races*, pp. 111, 116.

[73] Sturm-Maddox, 'Configuring Alterity', pp. 131–32.

[74] Kappler, *Monstres, démons et merveilles*, p. 235.

[75] Friedman, *The Monstrous Races*, p. 119.

ontological reality'; it 'undermines the adequation of symbol to symbolized so as to force the mind through the symbol and beyond it'.[76] Pseudo-Dionysus considers the monster to be a paradox which questions the reality that it appears to signify, and urges the reader/viewer to seek the truth behind the sign.[77] As noted earlier, Pickens argues that Jean d'Arras constructs a context of paradox through which the truth is revealed. Within this framework which accepts the possibility for monsters to be more than negative repercussions of the past or signs of the future, the following section considers Mélusine's maternity and monstrosity from the perspective of the philosophy of paradox and argues that these qualities work together, and not against each other in the text, to direct Raymondin to a state of spiritual enlightenment.

Mélusine — A Nurturing Monster?

Kevin Brownlee has suggested that Mélusine may be considered a feminine, secularized representation of Christ's incarnation.[78] Certainly Raymondin's analogy of Mélusine with a unicorn might substantiate this idea. However, while I hesitate at this stage to agree unreservedly with Brownlee's proposition, I concur that we should look past Mélusine, the monstrous mother of the Lusignan family, to search for a deeper meaning behind her construction.

It may be appropriate, as Le Goff suggests, to consider Mélusine as a celestial or spiritual guide for her husband.[79] We have seen that Raymondin early on recognized in Mélusine a comfort for his sorrows as well as a path or '"voye premiere de 1'ame de moy"' (44). Furthermore, after her disappearance, Raymondin realized that rather than Fortune controlling his destiny, it was in fact God who motivated otherwise inexplicable events in his life. This idea was first suggested to him by his uncle (19–22) but was subsequently reiterated by Mélusine when she proclaimed the incomprehensible nature of God's acts as an explanation for Geoffroy's murder of his brother. Mélusine's explanation echoes the narrator's introductory comments on the inscrutable nature of God's will and works. This parallel suggests that the reader should understand her words not in the negative sense of a serpentine mother protecting her brutal son, but as a sign of Mélusine's greater knowledge of the world.[80] It may even be that Mélusine's nurturing and her knowledgeable yet serpentine form

[76] Williams, *Deformed Discourse*, p. 6.

[77] Williams, *Deformed Discourse*, p. 48. On the monster's signification of something beyond itself, see also Jeffrey Jerome Cohen, 'Monster Culture (Seven Theses)', in *Monster Theory: Reading Culture*, ed. by Jeffrey Jerome Cohen (Minneapolis: University of Minnesota Press, 1996), pp. 3–25, esp. pp. 4, 6.

[78] Brownlee, 'Mélusine's Hybrid Body', p. 38.

[79] Le Goff and Ladurie, 'Mélusine', p. 603.

[80] On this scene, see also Pickens, 'The Poetics of Paradox', p. 66.

have been deliberately invoked both to recall the monstrous serpent of Eden who encouraged Eve to learn from the Tree of Knowledge, as well as to locate paradoxically this knowledge in a positive, Christian framework.

The conception of the monstrous Mélusine as a godly fount of wisdom and truth draws not only on understandings of paradox and monsters as pedagogical devices, but also on the classical theories of Apuleius. Apuleius believed that demons were mediators between the earthly and divine worlds.[81] Influenced by Plato, he considered demons to be guardians of an individual's thoughts and behaviour which bring the soul to judgement after death. As D.L. Walzel explains, 'It is not stated by Plato, but Apuleius thinks that this guardian demon which ultimately brings men to judgement dwells in the profound recesses of the mind, in the place of conscience.'[82] In this respect, we can understand the monstrous and maternal qualities of the heroine collaborating to guide and nurture Raymondin towards a better judgement of the world and himself, a path which leads him to spend his final years praying for forgiveness.

It is clear that Mélusine embodies qualities belonging to both the ideal mother and the archetypal monster. Her establishment of the illustrious Lusignan heritage, through which the duc de Berry claimed the right to the Poitevin estates at the end of the fourteenth century, is ostensibly marred only by her biological and, at times, social monstrosity. However, if one seeks to identify Mélusine firmly as either an ideal mother or inimitable monster, difficulties arise when she is examined in terms of medieval philosophies which valorize monsters and marvels as works of God and symbols of Christian truth. For, it is within this context that one realizes that motherhood, with its nurturing, teaching principles is not diametrically opposed to the concept of the monstrous. Rather, in the context of the *Roman de Mélusine*, the heroine's maternal nature is complemented by the monstrous as she enables Raymondin to attain a greater knowledge of God and himself. In this respect, the maternal and monstrous are interconnected qualities which work together for the benefit of God and the Lusignan family. While on a narrative level, Mélusine's exemplary motherhood seems to conflict with her monstrosity, it is precisely her monstrosity which creates the dramatic tension leading to both the final betrayal and, significantly, Raymondin's recognition that God's nature and will are inscrutable. Consequently, rather than deciding in favour of Mélusine as mother or monster, perhaps we should see the heroine as a marvellous, monstrous, yet nurturing figure who raises a great family following a Marian model of motherhood in the earthly world, while on a spiritual plane, she guides her husband towards an enlightened and unquestioning knowledge of himself and God.

---

[81] D. L. Walzel, 'Sources of Medieval Demonology', in *Witchcraft in the Ancient World and the Middle Ages*, ed. by Brian P. Levack (New York: Garland, 1992), pp. 79–95 (p. 80).

[82] Walzel, 'Sources of Medieval Demonology', p. 81.

Women, Family, and Inheritance in Bologna during the Black Death

SHONA KELLY WRAY

The medieval urban family was a flexible institution. As has been demonstrated for families of late medieval urban Italy, it could swell in size with new members (the new families of sons) and then shrink later in the life of the patriarch and his wife or of a widow.[1] It faced constraints and stresses with new arrivals and departures from marriages, births, and deaths of its members. The family then was constantly making decisions about the immediate and future health and wealth of the changing group of its members. In this paper I will examine the decisions made within families, about the family, during the Black Death. This was a particularly difficult time for the medieval family when it was severely stressed by the departure of members through death and faced with unprecedented concerns about the immediate health of its members as well as the prosperity and indeed survival of the family in the future. How did medieval urban families react when faced with the horrifying consequences of epidemic disease? One common answer is found in the literary sources, such as Boccaccio's famous 'Introduction' to the *Decameron* in which he described the dissolution of Florentine families. According to his report, families did not continue to function, but instead individuals were concerned only for themselves: 'brothers abandoned brothers, uncles their nephews, sisters their brother, and in many cases wives deserted their husbands. But even worse and almost incredible, was the fact that fathers and mothers refused to nurse and assist

[1] This statement is a simplification of a complex phenomenon that did not encompass all families all the time. For the details, see David Herlihy and Christiane Klapisch-Zuber, *Tuscans and their Families: A Study of the Florentine Catasto of 1427* (New Haven: Yale University Press, 1985), pp. 308–19, and the references therein for the works of Richard Goldthwaite and F. W. Kent.

their own children as though they did not belong to them.'[2] While it is plausible that this was the reaction of many individuals, should we conclude from the literary evidence that dissolution of the family was the general result of the entrance of plague in cities? It is prudent to examine other types of sources and other cities in order to better understand the experience of the Black Death.

In this essay, I will investigate how families reacted, in particular the decisions they made concerning the family, during the Black Death in Bologna. The source I will use is the last will and testament.[3] In addition to its focus on the future life of the testator's soul, a will reveals much information about the testator's wishes for family and kin. In wills we learn about arrangements for burial, how the patrimony would be preserved and passed on, who would take care of minor children, and on whom the testator relied to carry out all instructions in the will, that is, who was the executor. These instructions were usually (but not always) the concern of the testator's family and kin.

Bologna has an abundance of wills remaining from this period. Although the town did not suffer during the Black Death as much as some Italian towns, such as Florence and Venice, its estimated mortality rate of 40% out of a population roughly estimated at thirty to forty thousand makes it comparable to many towns across Italy and Europe.[4] In the notarial registers of Bologna, the so-called *Libri Memoriali*, are

[2] Giovanni Boccaccio, *Decameron*, trans. by G. H. McWilliam (Harmondsworth: Penguin, 1972), p. 54. These words are repeated (often exactly in either Italian or Latin) by other Italian chroniclers and authors, such as Agnolo di Tura del Grasso of Siena, Guglielmo Cortusi of Padua, and Gabriele de Mussis of Piacenza (which appear translated in *The Black Death*, ed. and trans. by Rosemary Horrox, Manchester Medieval Sources Series (Manchester: Manchester University Press, 1994), pp. 14–26, 34–41). Other chronicles with the same descriptions are the *Storie Pistoresi*, ed. by Silvio Adrasto Barbi in *Rerum Italicarum Scriptores*, vol. II, pt. 5 (Città del Castello: S. Lapi, 1906), p. 235, and *Marcha* of Marco Battagli da Rimini, ed. by Aldo Francesco Massèra in *Rerum Italicarum Scriptores*, vol. XVI, pt. 3 (Città di Castello: S. Lapi, 1912), p. 54. It appears that the theme of abandonment of family members became a literary trope.

[3] On medieval Italian wills, see Steven Epstein, *Wills and Wealth in Medieval Genoa, 1150–1250* (Cambridge: Harvard University Press, 1984), and the many works of Samuel Kline Cohn Jr. including *The Cult of Remembrance and the Black Death: Six Renaissance Cities in Central Italy* (Baltimore: Johns Hopkins University Press, 1992). For wills in Bologna, see Shona Kelly Wray, 'Last Wills in Bologna during the Black Death' (unpublished doctoral dissertation, University of Colorado, Boulder, 1998), and Martin Bertram, 'Testamenti medievali bolognesi: Una miniera documentaria tutta da esplorare', *Rassegna degli Archivi di Stato*, 52 (1992), 307–23.

[4] Antonio Ivan Pini has calculated the population of Bologna at its height to be fifty thousand in 1294 and twenty-five thousand after the Black Death. There are no accurate estimates of the population of Bologna immediately before the Black Death. See Antonio Ivan Pini, 'Problemi di demografia bolognese del Duecento', *Atti e Memorie della Deputazaione di Storia Patria per le Provincie di Romagna*, n.s., 16–17, (1969), 146–222 (pp. 180–222), and

preserved over one thousand wills from 1348 of testators living within the city.[5] In this essay I have used two samples of wills, a pre-plague and plague sample, for which I have collected information on arrangements of burials, executors, guardians, and inheritance. The pre-plague sample contains all the extant wills in the first four months of the year, which include only twenty-eight testators, due to missing registers. The plague sample contains 194 wills drawn up during the second half of the year, that is, after the plague entered Bologna.[6] I will compare the evidence from the two samples in order to examine how the plague affected decisions concerning the family and inheritance.

The fact that so many wills survive from a year of such catastrophe contradicts the picture of social disorder presented in Boccaccio's 'Introduction' and some chronicle accounts.[7] In fact, there remain in the *Memoriali* 579 wills from the month of July alone. This is much greater than the other plague months of June and August, in which were redacted 132 and 192 wills respectively. Moreover this represents much greater activity on the part of notaries, priests, and witnesses (all present at the making of a will) than at any other 'normal' or pre-plague time period.[8] By means of

---

Antonio Ivan Pini, 'Forme di conduzione, rendita fondiaria e rese cerealicole nel Bolognese dopo la peste del 1348: l'azienda del convento di San Domenico', in *Medioevo rurale: Sulle tracce della civiltà contadina*, ed. by Vito Fumagalli and Gabriella Rossetti (Bologna: Mulino, 1980), pp. 259–97. His estimate of a 40% drop in population due to the Black Death may be low. In general, recent scholarship is coming up with increased mortality rates for the Black Death. For a survey of recent and past demographic results, see *The Black Death*, ed. and trans. by Horrox, pp. 229–36.

[5] This number does not include codicils. On the *Libri Memoriali*, see Luisa Continelli, *L'Archivio dell'Ufficio dei Memoriali: Inventario*, vol. I, *Memoriali 1265–1436*, pt.1, *1265–1333*, Universitatis Bononiensis Monumenta, 4 (Bologna: L'Istituto per la storia dell'Università, 1988); Giorgio Tamba, 'Un archivio notarile? No, tuttavia . . .', *Archivi per la Storia*, 3 (1990), 41–96; and G. Tamba, 'I Memoriali del commune di Bologna nel secolo XIII, note di diplomatica', *Rassegna degli Archivi di Stato*, 47 (1987), 235–90. On the existence of wills in the *Memoriali*, see Martin Bertram, 'Bologneser Testamente: Zweiter Teil: Sondierungen in den *Libri Memoriali*', *Quellen und Forschungen aus italienischen Archiven und Bibliotheken*, 71 (1991), 195–240.

[6] The majority of wills (158) in the sample were redacted in July and August, when the plague ravaged the populace of Bologna. For a discussion and charts of all wills and business contracts remaining during the Black Death, see Shona Kelly Wray, '*Speculum et Exemplar*: The Notaries of Bologna during the Black Death', *Quellen und Forschungen aus italienischen Archiven und Bibliotheken*, 81 (2001), 200–27.

[7] See note 2 above.

[8] The highest number of wills redacted and copied into the *Memoriali* before the plague entered Bologna in May is eight wills from April. However, there are gaps in the registers from the first half of the year so this low number is not a good example of normal will-making activity. Nevertheless, the massive number of wills from July clearly departs from normal activity as shown in other studies. For a monthly count of wills in the *Memoriali* from 1268, in

a will, the heads of Bologna's families dictated their intentions for the future of their families' patrimony and, even during the plague, there must have been the assumption that these instructions would be carried out (otherwise why would so many people bother to make a will at all?).

When it came to one of the first instructions in the will, the arrangements for burial, this picture of the continued functioning of the family and the assumption that one's instructions would be carried out is also apparent. Beginning with the pre-plague wills from January to April, we find that twenty-one (or 75%) out of twenty-eight testators left some sort of instructions in their wills concerning their last resting place.[9] None of these testators left directions for a specific location for their bodies. Only one woman goes beyond the otherwise unanimous instruction of 'at the church' (*apud ecclesiam*) to add 'in the ground and not in a tomb'.[10] The vast majority of testators in the pre-plague sample left the decision of how much to spend at a funeral to their executors. Thus, in general it appears that instructions for burial are common and not elaborate.

There are differences in burial instructions during the plague, but they do not appear to be related to the circumstances of the epidemic. According to the plague sample, fewer testators (54%) made some kind of arrangement for burial in their will. As was the case before the plague, the vast majority of these instructions are simply to be buried at the parish church with the executor in charge of financial arrangements. The rest of the testators, then, may have assumed that their families or whomever they designated as executor would take care of the burial, which took place — they hoped — in the parish church. The decreased number of burial arrangements in the plague sample may be due to the discrepancy in size of the samples.[11] Nevertheless, it is also possible that there were more plague testators who tacitly relied on their families or executors, instead of stating their preferences (as they might have done before the plague), because such instructions were futile in a time of mass burials. Furthermore, very few testators left specific sums of money for burial. When they did leave money it followed the traditional behaviour of leaving

---

which the highest number of wills in a month was eighty in August, and from 1300, in which the highest number was 219 in September, see Bertram, 'Bologneser Testamente', pp. 212–15.

[9] These numbers are in line with Cohn's estimates that Sienese testators before 1363 selected graves in 70% of all testaments; Samuel K. Cohn Jr., *Death and Property in Siena, 1205–1800: Strategies for the Afterlife* (Baltimore: Johns Hopkins University Press, 1988), p. 60. However, in Venice the numbers were much lower as Dennis Romano found only 15% of testators he examined left such instructions; Dennis Romano, *Patricians and Popolani: The Social Foundations of the Venetian Renaissance State* (Baltimore: Johns Hopkins University Press, 1987), p. 117.

[10] Archivio di Stato di Bologna, *Memoriali*, vol. 228, fol. 373^{r}: 'in terra et non in archa'.

[11] A larger pre-plague sample might prove that 75% is too high. Somewhere around 50%, mid-way between Cohn's and Romano's estimates, may more accurately reflect reality in fourteenth-century Bologna.

money for burial in a mendicant church, which demanded greater expenses (ranging from ten to fifty Bolognese pounds). Thus, these few noted expenses appear unrelated to the epidemic conditions. (There were no monies set aside in wills to pay the porters or *becchini* noted by Boccaccio and other chroniclers.) Burials must have been disrupted as chroniclers and Boccaccio relate, but people seem to have accepted the truncated arrangements and hoped for the best, at least according to the evidence of their wills. Moreover, there is chronicle evidence of a reliance on family for burial. For example, Agnolo di Tura del Grasso, the chronicler of Siena, wrote that he buried his five children with his own hands. He also wrote that 'members of a household brought their dead to a ditch as best they could, without priest, without divine offices'.[12] The author Gabriele de' Mussis of Piacenza wrote of family members assisting each other: 'And when the victim had breathed his last, it was often the mother who shrouded her son and placed him in the coffin, or the husband who did the same for his wife, for everybody else refused to touch the dead body.'[13] Thus, within the pictures of disorder and difficulty in the chronicles we see the family continuing to look after its own. This picture is also confirmed by the wills.

In the wills the principal person whom testators instructed to carry out their last wishes, often including the burial of their body, was the executor. Most people named an executor in their wills: 70% of the pre-plague testators and 80% in the plague sample. By examining these people we can understand to whom testators turned for support in arranging for the future of their families in normal times and during the very difficult, unusual circumstances of plague.

As expected, many people turned to their relatives before the plague. However, they were not in the majority, as I have been able to identify eighteen or 41% of the forty-three executors from the sample as related to the testator.[14] There are interesting differences between the types and frequencies with which men and women appointed relatives. Men were less likely to appoint relatives as executors than women: 31% did so compared with 50% of female testators. The relatives that men turned to were of a more limited group: three wives, one son, and one sister were appointed. Women drew upon a wider range of relatives, including their parents, their children, brothers (but not sisters), and a niece or granddaughter. The marriage status of female testators was important in the choice of executor. Married women relied almost solely on relatives as executors, with the husband being the primary but not the only choice, since there also appear a brother and a mother. The widows relied heavily on their children, who were more likely to be older and/or emancipated than

[12] This section of Agnolo di Tura's chronicle has been translated by William M. Bowsky. See his *The Black Death: A Turning Point in History?* (New York: Holt, Rinehart and Wilson, 1971), p. 13.

[13] *Black Death*, ed. and trans. by Horrox, pp. 22–23.

[14] Many testators appointed more than one executor: 45% of testators chose one executor, 40% named two or three, and 15% named four or five.

those of married women. One widow called on her father, an unusual choice for any testator.[15] But what set widows apart from other testators was their reliance on religious men as executors. No man or married woman did this. Widows called upon mendicant brothers, the rector of a devotional hospital, and the chaplain of a parish church to carry out the instructions of their wills.

How did the plague alter the choices of executors? Testators in the second half of the year did rely on their relatives slightly more than during the first four months of the year: 47% versus 41% of all executors were identifiable as relatives. Women were again more likely than men to appoint a relative as executor: they did so with the same frequency as before the plague, namely, 50%. However, after the plague arrived, more men turned to their relatives for help: 44.5% of their executors were relatives. The range of relatives broadened extensively in the second half of the year. As before, wives were the first choice for men, but brothers were a close second. After them came sisters, mothers, sons, and daughters.[16] For the first time testators turned to their in-laws for help: we find two brothers-in-law, two sons-in-law, a sister-in-law, and a father-in-law. Also for the first time, men turned to the religious community for aid. However, priests and friars form a smaller percentage (7% versus 11%) of the total number of executors in the sample during the second half of the year.

Similar to married men, married women made their spouse their first choice among executors, while brothers made up the second choice. Unlike the pre-plague sample, wives named children, parents, and parents-in-law. In these choices married women were behaving more like widows, except for the omission of clergy. As they did before the plague, widows in the plague sample relied more heavily on their children than any other group of testators. However, the biggest difference is that brothers and sisters were now just as important as children. The widows, again, were unusual because they turned to large numbers of religious men for assistance: eight mendicant friars and four parish priests were named as executors. Thus, the plague does appear to have affected the choice of executor. More testators, especially men,

[15] This widow's will is unusual. There is no mention of her dead husband, but she had a married son. Her bequests are all specified as 'from her dowry'. It seems that she had moved back into the home of her father after the death of her husband, or at least that her father was directing much of her life, because the will was redacted in the houses of the Franciscan tertiaries ('in ospitibus fratrum tertii ordinis Sancti Francisci'), of which her father was a member ('tertius ordinis Sancti Francisci'): Archivio di Stato di Bologna, *Memoriali*, vol. 228, fol. 255^{v}. For the practice of returning widowed daughters to their birth households, see Christiane Klapisch-Zuber, 'The "Cruel Mother": Maternity, Widowhood, and Dowry in Florence in the Fourteenth and Fifteenth Centuries', in her *Women, Family, and Ritual in Renaissance Italy* (Chicago: University of Chicago Press, 1985), pp. 117–31. The fathers of most testators were dead, as revealed by the terms 'fillius(a) quondam' before the last name.

[16] Male testators appointed nineteen wives, seventeen brothers, five sisters, three mothers, three sons, and three daughters as executors.

turned to relatives and expanded their choice of kin. Siblings were now a much more important source of support for testators. While before the plague only widows were likely to call upon more distant relatives and the religious community for aid, during the plague their behaviour was imitated by more testators. Again, we see that for many people during the plague the immediate family, that is, spouse and children, were still the primary source of support, but they were now assisted in greater numbers by siblings and in-laws.

The high mortality of the plague caused parents to nominate guardians for their minor children in larger numbers than before. Most of these guardians were instituted with a separate contract, but the will was also a means by which a guardian could be chosen. A guardian or *tutor*, who held the authority of person and property over his or her charge, could be male or female, but according to the Italian legal historian Enrico Besta, agnate or paternal relatives were preferred to cognate or maternal relatives. However, the choice of women was limited as only the wife and paternal grandmother were considered appropriate. Priests and regular clergy were not considered suitable due to their spiritual duties. [17]

The pre-plague sample only provides three wills naming guardians: two men appointed their wives (following the traditional pattern) and a widow appointed her mother (which goes against the tradition of accepting paternal grandmothers only). The plague sample provides more examples: seventeen men made arrangements for guardians in their wills. Thirteen of them instituted their wives who usually served alone (eight cases), but who were also appointed with a maternal grandmother, with a sister, or with executors and another agnate relative. Three unrelated men, two of whom were an executor and a *familiaris* or retainer, were appointed by the male testators. The one woman who appointed a guardian in the plague sample of wills named her sister, a relation that also appears three times among the guardians chosen by men. Thus, it appears that during the plague testators continued to entrust the guardianship of minors to their spouses according to custom, but unlike traditional preferences they also drew upon their siblings, cognate kin, and a few acquaintances for support.

The final decision of the will was the nomination of heir, which was one of the most important instructions. Whether or not a will specified burial instructions or nominated an executor or guardian, it almost always nominated an heir.[18] Once again, we will see that the heavy mortality of the Black Death forced family members to alter their customary decisions about inheritance. These changes are similar to those already discussed concerning executors and guardians.

For all testators in the pre-plague sample, male or female, of any marriage status, sons were the principal choice: fifteen of the twenty-six testators made their sons principal heirs. Daughters and wives were rarely appointed. The preference for sons

[17] Enrico Besta, *La famiglia nella storia del diritto italiano* (Milan: Giuffrè, 1962), pp. 243–44.

[18] The pre-plague sample is highly unusual in that two testators did not specify an heir.

and exclusion of wives and daughters conforms to the general view of inheritance strategies in late medieval Italy.[19] Unmarried men chose a brother or nephews, and in one unusual case, a nun who does not appear to have been related to the testator. The four married women appointed their husbands or their sons as heirs in equal numbers. There was more choice exhibited by widows and unmarried women in their appointment of religious heirs, such as the 'poor of Christ', and more distant relatives.

About a third of the testators (38%) also nominated secondary heirs, substitutes in case the primary heirs died without children. Male and female testators named specific substitutes who all were women: a married female testator appointed her mother; two widows appointed nieces and a sister; and two married men appointed a daughter and a wife. However, one widow directed her wealth for the benefit of her soul after her grandson and his children had died.

The type of religious sentiment displayed by this widow does not play a large role among choice of heirs until we get to the third level of heirs, namely, substitutes for the secondary heirs. Not many testators left a third set of heirs: three testators or 11.5% of all testators leaving any heirs left requests of this detail. The majority of these instructions were with a pious intent.

One might have expected that the nomination of heirs was affected by a more urgent sense of piety and concern for the benefit of one's soul during the frightening months of plague. But I have found from the sample of plague wills that testators did not abandon the family to pass their wealth on to religious causes for the benefit of their souls. Nevertheless, inheritance practices were affected by the mortality of the plague. Unlike the pre-plague wills, women gained importance as heirs, particularly daughters and sisters. Wives continued to be shut out of the men's patrimony. Other family members and more distant kin appeared as heirs for the first time.

Of the forty-one married men in the plague sample, only four appointed their wives as principal heir, one of whom was to share with a son. As before, the majority appointed their children, that is, twenty-eight or 68% of these married men. Half of them named only sons, but six named only daughters, and five named sons and daughters together (with the remaining children being nominated with either their mothers or 'those about to be born'). Thus, the percentage of child heirs who were daughters more than doubled from the previous semester. Unlike pre-plague wills, brothers and sisters appeared in significant numbers. Two men searched down kinship lines the farthest to appoint a granddaughter and a group of nieces and nephews. Only two married men went beyond kin: one appointed an unrelated man and the other 'the poor of Christ'.

[19] For a survey of inheritance practices see Christine Meek, 'Women, Dowries and the Family in Late Medieval Italian Cities' in *'The Fragility of Her Sex'?: Medieval Irish Women in their European Context*, ed. by Christine Meek and Katharine Simms (Dublin: Four Courts Press, 1996), pp. 136–51 (pp. 142–46). See also Ann Crabb, *The Strozzi of Florence: Widowhood and Family Solidarity in the Renaissance* (Ann Arbor: University of Michigan Press, 2000), pp. 34–41.

This reluctance to go beyond one's kin was not the case for the sixty-three apparently unmarried men in the plague sample. Sixteen or 25% left the bulk of their inheritance to persons not related to them. The largest group of these men without wives thought of their own siblings when giving away their inheritance. Four testators named their siblings' children and two named their parents as heirs. Again, a small percentage of testators made heirs with a purely pious intent: only two left heirs who were the 'poor of Christ'.

The group that looked beyond the lines of kinship to find heirs in the largest numbers was the seventeen unmarried women of whom the majority, 58%, left their inheritance to unrelated persons, who were, again, usually males, often the executor or his sons, but sometimes women. Another two of these seventeen women left religious heirs: a devotional Hospital and the 'poor of Christ'. This is a small number in itself, but nevertheless represents the largest percentage (12%) of testators from any category. The only relatives named as heirs by these women without children or husbands were two groups of brothers, a sister, and a mother.

As they had done before the plague, most widows appointed their children, with sons alone as the primary choice. But as we have seen for men, daughters made a stronger appearance in the plague sample than before.[20] As before, widows chose from a wider range of relatives than married women, since they included their siblings (brothers as frequently as sisters), their grandchildren of both sexes, and possibly their nieces and nephews. However, unlike the widows of the pre-plague sample, after the plague arrived no widows named religious heirs. Unlike unmarried women and men with no wives, widows rarely appointed people who were not related as heirs: only one widow made such a choice when she named a merchant as her heir.

The other group of women who kept their choice of heirs strictly within the family, and indeed within the nuclear family, were married women. As before the plague these twenty-eight testators were the most limited of all groups in their range of choices for heirs. However, they did display a somewhat wider selection of heirs after the plague arrived. Half named their husbands — the same percentage as before. But the other fourteen women did not solely appoint children as their pre-plague counterparts had done: one named her father and two others made pious choices. Of the eleven (or 38%) who made children their heirs, these mothers continued the stronger preference for sons that many fathers had rejected: seven appointed sons alone and none named only daughters.

After the plague arrived in Bologna it is surprising to note that the same percentage of testators (39%) named secondary heirs as they had done in the first four months of the year. However, the strategies employed by testators in their choice of substitute heirs did change after the plague. We have seen that before the plague

[20] Of the forty-three widows, twenty-nine appoint their children: nineteen appoint sons alone, seven name only daughters, two name their children of both sexes, and one names a daughter to share with her brother. Before the plague, six widows made their sons principal heirs, with only one of these including also daughters.

women were largely absent as principal heirs and instead were the primary choice as substitutes. During the plague women had moved up from the second level to appear in greater numbers as principal heirs. This meant that those testators wishing to keep the bulk of the inheritance within their family had to look further along kinship lines for their heirs. Male testators practised this behaviour. The largest category of secondary heirs among males was the testator's siblings, followed by nephews. These men also appointed relatives not often mentioned, namely, their cousins and a sister-in-law. Only three testators (7% of male testators) named religious institutions as the sole secondary heirs, while four others included religious heirs along with their relatives.

Among women, widows were most likely to appoint secondary heirs and displayed the widest choice. They mostly appointed their siblings, but also considered their daughters, nieces, sons of nephews, grandsons, and their mothers. They appointed religious secondary heirs more than twice as often as men did.

The other testators who displayed a strong religious preference were unmarried women, but they were the least likely to name substitute heirs (only two or 12% did so). One named the poor and the other named her executor, a relative, as heir. Those displaying the least religious intent in their choice of secondary heirs were the seven married women who first favoured husbands, then surviving children, and lastly one woman named a brother.

The testators from the plague sample closely followed the behaviour of those before the plague when they chose a third level of heirs. Again, it is remarkable that there is almost no difference in the frequency with which testators pondered the possibility of death of their heirs before and after the arrival of the plague: 11.5% of testators with heirs named tertiary heirs in the first four months of the year, and 13.5% (or twenty-six out of 194) after the plague arrived. As before, the bulk of tertiary heirs were religious institutions or the poor, nominated with the purpose of benefiting the testator's soul. Women were only slightly more likely than men to name such heirs, but among them were widows who appointed such heirs in the greatest frequency.

Thus, the Black Death appears to have had a mixed effect on the inheritance strategies of Bolognese testators. They did not turn over their wealth to charity in massive numbers. Instead, there was only a slight increase among testators naming churches or the poor as their principal and secondary heirs. Only a minority of testators, whose numbers remained unchanged by plague, considered in their wills the possibility of the death of all their heirs and came to the conclusion that charitable bequests to benefit their soul would be the best strategy. Instead of religious institutions, those who appear to have benefited from the plague were women since testators expanded their choice of relatives in order to keep their wealth channelled along the lines of kin. According to the sample of wills, daughters were nominated as heirs in much greater numbers than before the plague. Sisters also benefited, as did brothers, from the new inheritance strategies at work during the plague. Due to the discrepancy in size of the samples, these conclusions are preliminary. Nevertheless,

the inheritance strategies demonstrated in the smaller sample do follow the general pattern for inheritance found in other studies. And it is this general pattern of preference for male, agnate heirs that shifted towards an inclusion of female heirs during the Black Death.

The wills of Bologna have allowed us to investigate testators' family and kin during the plague. These people were asked to be executors and guardians. Testators depended heavily on their families during the plague in order to bury their bodies, disperse their wealth, and guard over their children. With the heavy mortality of the plague they were forced to expand their traditional choices of executors and guardians and call upon the aid of a wider range of relatives, particularly brothers and sisters. Similarly, new strategies for inheritance were apparent after the plague took hold in Bologna. Women, especially daughters, appear to have been the immediate beneficiaries of these new strategies. Whether these changes that took place within the year of the Black Death would continue has yet to be determined. My guess is that traditional inheritance patterns soon returned. Nevertheless, we have seen that during the Black Death the families of Bologna were flexible in their decisions and strategies and remained resilient and functioning in the face of plague.

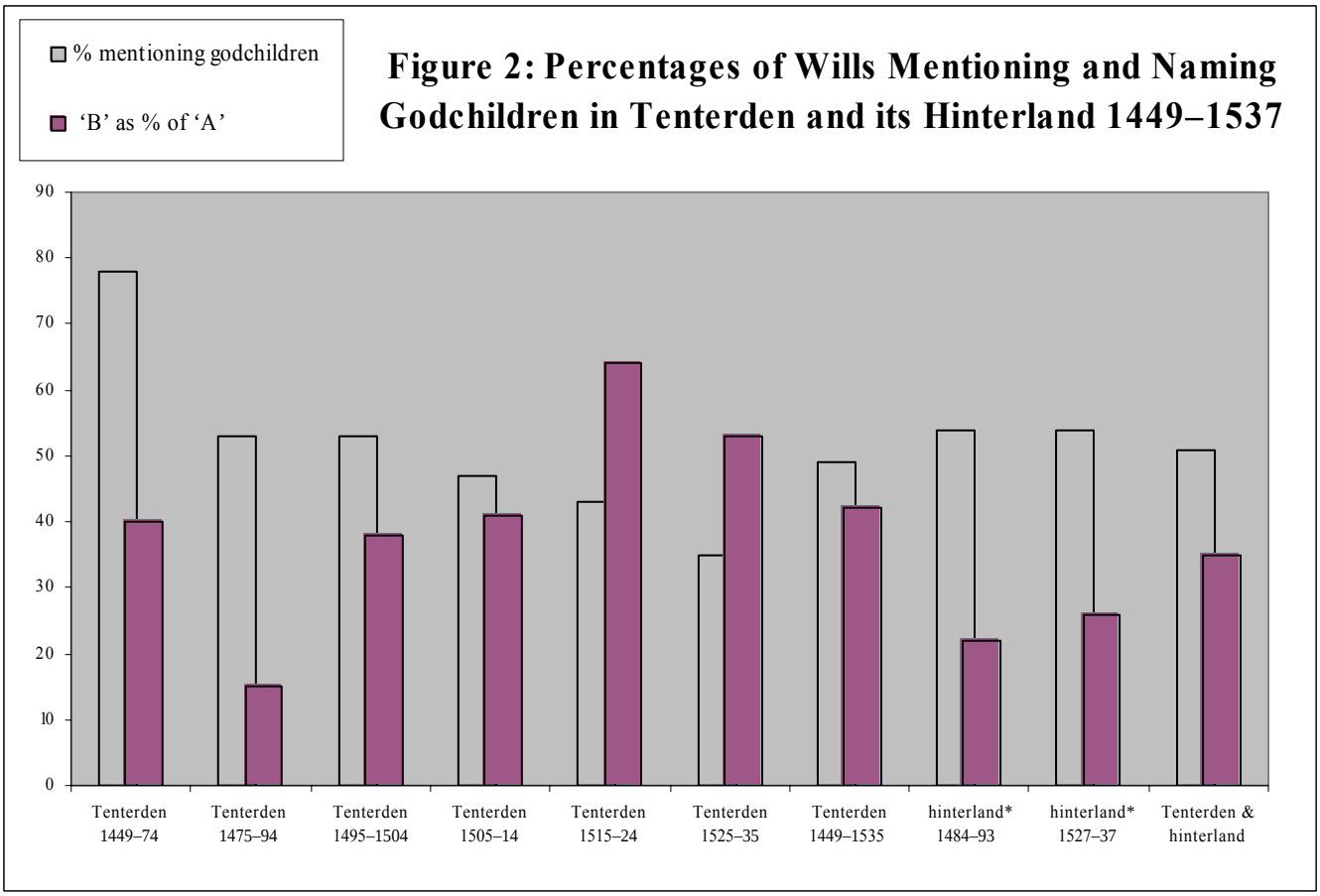
Figure 1: Godparenthood in Tenterden and Hinterland Parish Wills, 1449–1537

Area and Date Range	Total No. of Wills	A: No. of Wills Mentioning Godchildren	% Mentioning Godchildren	B: No. Which Name Godchildren	'B' as % of 'A'
Tenterden 1449–1474	32	25	78	10	40
Tenterden 1475–1494	38	20	53	3	15
Tenterden 1495–1504	40	21	53	8	38
Tenterden 1505–1514	47	22	47	9	41
Tenterden 1515–1524	51	22	43	14	64
Tenterden 1525–1535	55	19	35	10	53
Tenterden 1449–1535	**263**	**129**	**49**	**54**	**42**
hinterland* 1484–1493	69	37	54	8	22
hinterland* 1527–1537	91	49	54	13	26
Tenterden and hinterland	**423**	**215**	**51**	**75**	**35**

*Hinterland parishes: Appledore, Benenden, Biddenden, Ebony, Halden, Rolvenden, Stone, Wittersham, Woodchurch

↑ Lutton, figure 1, p. 223 (3.91w X 6.59h)

↓ Lutton, figure 2, p. 224 (4.62w X 6.87h)



Godparenthood, Kinship, and Piety in Tenterden, England 1449–1537*

ROB LUTTON

Godparenthood has been well studied within social anthropology over the past fifty years but has been given far less attention by historians of late medieval western Europe, despite the institution's importance and formative development during this period. Those few historical studies which do exist have only partly applied the theories and models developed within social anthropology to late medieval evidence, and this investigation of godparenthood in late medieval England aims, in part, to begin to close this gap. By testing theories and models developed in quite different contexts, it is possible to develop conceptualizations of spiritual kinship and its wider significance which are more ideally suited to the particular social, cultural, and economic conditions of the later Middle Ages.

An understanding of the importance and role of godparenthood at Tenterden is sought here through analysis of its relationship to other types of relatedness and its specific content as diversely represented in testamentary evidence. What was godparenthood for, how and why was it used, and what was its relationship to family and kinship? Were the relationships created through baptism and other Christian rites considered as part and parcel of relationships within and beyond the nuclear family, which were bounded by blood and marriage, or were they thought of as something quite different? What bearing did godparenthood have upon the transmission of material, social, and cultural resources between individuals, households, and the generations? In considering the specific uses of godparenthood it is important to explore also its ideological basis. It was essentially a religious and moral institution which was viewed, whatever its social application, in spiritual and pious terms. What was the significance of godparenthood in the transmission of piety and the maintenance of religious tradition and affiliation?

* I would like to thank Lynne Bowden, Andrew Butcher, Isabel Davis, and Sheila Sweetinburgh for their many helpful comments on earlier drafts of this paper.

John Bossy's 1973 article: 'Blood and Baptism: Kinship, Community and Christianity in Western Europe from the Fourteenth to the Seventeenth Centuries', remains a useful and rare statement on godparenthood in the late medieval period. Written with reference to the seminal work of the social anthropologists Mintz and Wolf on ritual co-parenthood (or *compadrazgo* to give it its Mediterranean and Latin American name), it focuses on the social function of godparenthood. Bossy suggests that the institution tended to extend existing kinship links rather than intensify them 'in the sense either of making firm connections between kin whose relationship might otherwise have been too distant to be effective, or of establishing them where they had not existed hitherto'.[1] Godparenthood's social efficacy lay in its ability to create a '"polyadic horizontal coalition", a kinship-group, partly natural and partly artificial', made up of ties between parents and godparents and between godchildren and their ritual kin and sponsors.[2] Bossy places the emphasis, therefore, upon the horizontal nature of the kin relations created or intensified through baptism and godparenthood and on the social cohesion and stability that these bonds helped to ensure.[3] He suggests that the 'lineage community' and nuclear family were of comparatively minor importance in religious life and that horizontal relations, 'without much depth in time', predominated in this sphere.[4]

The work of those anthropologists who have analysed spiritual kinship and, specifically, godparenthood and the *compadrazgo* from the perspective of its ideological and cultural content, and the relationship of spiritual or ritual kinship to the family and kinship relations as a whole, provides a somewhat different approach to these issues. Perhaps most important among these is Pitt-Rivers who, in a series of statements from the late fifties to the late seventies, outlined a coherent model for the study of ritual kinship and the *compadrazgo* in particular.[5] According to Pitt-Rivers

[1] John Bossy, 'Blood and Baptism: Kinship, Community and Christianity in Western Europe from the Fourteenth to the Seventeenth Centuries', in *Studies in Church History*, vol. X (Oxford: Basil Blackwell, 1973), pp. 129–43 (p. 133); S. W. Mintz and E. R. Wolf, 'An Analysis of Ritual Co-parenthood (*Compadrazgo)*', *Southwestern Journal of Anthropology*, 6 (1950), 341–68.

[2] Bossy quotes here from Eric R. Wolf, *Peasants* (Englewood Cliffs: Prentice Hall, 1966), pp. 84–85, which in fact refers to the co-parental relation between godparents and parents, or *compadre*, as a classic case of the dyadic horizontal relation, that is, a relation between two adults, one of whom agrees to sponsor the child of the other, through which both will gain through mutual assistance.

[3] Bossy, 'Blood and Baptism', p. 134; Mintz and Wolf, 'Ritual Co-parenthood', pp. 353–55; Alan Barnard and Anthony Good, *Research Practices in the Study of Kinship* (London: Academic Press, 1984), p. 153; Stephen Gudeman, 'The *Compadrazgo* as a Reflection of the Natural and Spiritual Person', *Proceedings of the Royal Anthropological Institute of Great Britain and Ireland for 1971* (1972), 45–67 (pp. 45–46).

[4] Bossy, 'Blood and Baptism', pp. 136–37, after Philippe Ariès, *Centuries of Childhood* (London: Cape, 1962).

[5] Julian Pitt-Rivers, 'Ritual Kinship in Spain', *Transactions of the New York Academy of Sciences*, 2nd series, 20 (1958), 424–31; Pitt-Rivers, 'The Kith and the Kin', in *The Character*

relationships between godparents and godchildren and between godparents and parents are relations 'based on the notion of spiritual affinity established in baptism' which are analogous to relations within the family, but opposed to them due to their spiritual, as opposed to corporeal, nature. This does not mean that such bonds amount to a type of fictive kinship, but a figurative one which is complementary to natural kinship.[6] It is the complementary relationship between the roles of the godparents as guardians of the individual self and of the parents as the protectors of the social self which is, for Pitt-Rivers, at the heart of ritual kinship. The godparents' role as guardians of the spiritual and moral individual make them of particular interest in terms of investigating the transmission of moral and religious sensibilities. In addition to any role godparents may have taken in the religious education of the child, the belief in some Mediterranean societies that godparents imparted moral character, complementary to the physical character imparted by parents, suggests that spiritual kinship may have played a pivotal role in the transmission of piety.[7] This conceptualization of godparenthood has a bearing also upon transmission in a more general sense. Godparents sponsor the child in his or her individual destiny to found a new nuclear family replacing that of his or her parents. So, 'the conflict of interest between parents and children is assuaged by the role of the godparent who is *compadre* (co-parent) to the parents'.[8] Conceived of in these terms godparenthood serves to mitigate the tensions and conflicts involved in the process of household dissolution and formation.

Crucially, godparents were complementary to family relations because they were outside the jural domain of the family and kinship. That is, they were free of the rights and obligations of descent, not least in terms of lineal inheritance.[9] For this reason Pitt-Rivers refers to spiritual kinship in terms of complementary filiation, as defined by Fortes,[10] with non-lineal kin tending to be chosen as godparents, so that in patrilineal societies the mother's brother, for example, or the affines — the non-lineal kin in the next generation — would be seen as ideal candidates well-disposed to the child.[11]

---

of Kinship, ed. by Jack Goody (Cambridge: Cambridge University Press, 1973), pp. 89–105; Pitt-Rivers, 'Ritual Kinship in the Mediterranean: Spain and the Balkans', in *Mediterranean Family Structures*, ed. by J. G. Peristany (Cambridge: Cambridge University Press, 1976), pp. 317–34; Pitt-Rivers, *The Fate of Shechem or the Politicy of Sex: Essays in the Anthropology of the Mediterranean* (London: Cambridge University Press, 1977).

[6] Pitt-Rivers, 'Ritual Kinship in Spain', p. 424; Pitt-Rivers, 'Kith and the Kin', pp. 94–95; Pitt-Rivers, 'Ritual Kinship in the Mediterranean', pp. 318, 320.

[7] Joan Bestard-Camps, *What's in a Relative? Household and Family in Formentera* (New York: Berg, 1991), pp. 34–35.

[8] Pitt-Rivers, 'Kith and the Kin', p. 102; Pitt-Rivers, 'Ritual Kinship in the Mediterranean', pp. 320–21; Pitt-Rivers, 'Ritual Kinship in Spain', p. 429.

[9] Pitt-Rivers, 'Kith and the Kin', pp. 95–96, 102–03.

[10] For a useful discussion of complementary filiation as conceived by Fortes, see Barnard and Good, *Study of Kinship*, pp. 73–5, and see also Bestard-Camps, *What's In a Relative?*, p. 35.

[11] Pitt-Rivers, 'Ritual Kinship in Spain', p. 430; Pitt-Rivers, 'Kith and the Kin', p. 103.

For Pitt-Rivers the ritual kinship established through baptism is founded on, and maintained by, trust and mutual respect, is not bound by obligations, and yet cannot be revoked or dishonoured. Where kin are chosen as godparents these bonds serve to ease the tensions and conflicts between collaterals which arise through the alliances of families in marriage.[12]

Building on the work of Pitt-Rivers as well as others, Gudeman added some important elements to this model of spiritual kinship. For Gudeman the network of relationships established through baptism is based upon 'the conceptual distinctions of the natural and spiritual being, and natural and spiritual parenthood'.[13] The *compadrazgo*'s ideological roots in the Christian theology of spiritual rebirth make it distinct and irreducible to other types of relationship and position it in relation to family and kinship.[14] More than a network of dyadic or polyadic bonds it is at once a 'sacred and social set of relationships' which remains in abstraction unless filled with content through social application. Equally, the various uses to which these bonds are put, and the relationships onto which they are mapped, are spiritualized through being part of the *compadrazgo*.[15] For Gudeman the *compadrazgo's* social value lies in the way it allows parents to establish links with others outside the immediate family which can be put to a variety of uses and are all the more reliable because of their spiritual and moral imperative. Importantly, the links created are between households rather than individuals, as they involve not just parent and godparent but the spiritual and natural co-parenthood of the child. It is only baptismal links which connect households as units, and so they have a special role to play in ensuring social stability and minimizing conflict.[16]

---

[12] Pitt-Rivers, 'Ritual Kinship in Spain', pp. 430–31; Pitt-Rivers, 'Kith and the Kin', pp. 102–03; Pitt-Rivers, 'Ritual Kinship in the Mediterranean', pp. 322–26.

[13] Gudeman, '*Compadrazgo* as a Reflection of the Natural and Spiritual Person', pp. 45, 54.

[14] See, however, M. Bloch and S. Guggenheim, 'Compadrazgo, Baptism and the Symbolism of a Second "Birth"', *Man*, n.s., 16 (1981), 376–86, which argues that the *compadrazgo* is fundamentally rooted in the ideology of gender rather than Christianity, and R. L. Stirrat, 'Compadrazgo in Catholic Sri Lanka', *Man*, n.s., 10 (1975), 589–606, which, with reference to Catholic Sri Lanka, argues that the spiritual relationships established in baptism can only be understood properly with reference to the socialization heralded by marriage.

[15] Stephen Gudeman, 'Spiritual Relationships and Selecting a Godparent', *Man*, n.s., 10 (1975), 221–37 (pp. 221, 225–26, 235); Gudeman, '*Compadrazgo* as a Reflection of the Natural and Spiritual Person', p. 46.

[16] Gudeman, 'Spiritual Relationships', p. 229; Gudeman, '*Compadrazgo* as a Reflection of the Natural and Spiritual Person', pp. 59–65. See also Martine Segalen, '"Avoir sa part": Sibling Relations in Partible Inheritance Brittany', in *Interest and Emotion: Essays on the Study of Family and Kinship*, ed. by Hans Medick and David Warren Sabean (Cambridge: Cambridge University Press, 1984), pp. 127–44 (p. 140), which highlights the way in which spiritual kinship was used in nineteenth-century Brittany to maintain links between married brothers and sisters living in different households.

More recently, Bestard-Camps has applied these theories, about complementary filiation and the conversion of collaterals from consanguine into spiritual kin, to family and kinship on Formentera, to find that by bringing the 'nuclear family closer to the diffuse range of its kindred' godparenthood redefines and revivifies relations of filiation and consanguinity which might otherwise be lost or become increasingly distant or redundant. In a society where 'kinship is fundamentally conceived in the present, and the nuclear family lacks a profound genealogical dimension [. . .] in extending through collaterals and transforming distant consanguine relations into a spiritual affinity, godparentship redefines those lines which the genealogical memory finds difficult to trace with precision'. The choice of young people as godparents — that is, of the same generation or younger generation as the parents — emphasizes the way in which the nuclear family becomes the point from which kinship relations are traced rather than back through a common ancestor.[17] This provides a different perspective on the relationship between the nuclear family and spiritual kinship to Bossy's, in that it retains the nuclear family as a key element in a complex of overlapping but complementary kinship bonds.

Detailed studies of late medieval godparenthood within particular geographical contexts in England have demonstrated the value of testamentary evidence in conjunction with other sources for gaining a deeper understanding of this form of relatedness.[18] Wills contain numerous and wide-ranging bequests to godchildren (and sometimes to godparents), and it is these references which are examined here for the Kentish Wealden town of Tenterden and nine adjacent parishes during the period 1449–1537.[19] There is no indication in the wills as to whether the relationships referred to were derived from baptism or confirmation but it is likely that the majority were created by the former rite and that baptismal sponsors were, on the whole, more

[17] Bestard-Camps, *What's in a Relative?*, pp. 39–42.

[18] Robert Dinn, 'Baptism, Spiritual Kinship, and Popular Religion in Late Medieval Bury St Edmunds', *Bulletin of the John Rylands Library*, 72 (1990), 93–106; L. M. A. Higgs, 'Lay Piety in the Borough of Colchester' (unpublished doctoral thesis, University of Michigan, 1983), pp. 140, 210–11; Barbara A. Hanawalt, *The Ties that Bound: Peasant Families in Medieval England* (Oxford: Oxford University Press, 1986), pp. 172–75, 246–48. For sixteenth- and seventeenth-century evidence, see Alan MacFarlane, *The Family Life of Ralph Josselin* (Cambridge: Cambridge University Press, 1970), p. 144, and Peter Wilmott and Michael Young, *Family and Kinship in East London* (Harmondsworth: Penguin, 1962), p. 85.

[19] These include all available wills for the parish of Tenterden from the earliest in 1449 to 1535 contained in the registers of the archdeaconry, consistory, and prerogative courts of Canterbury. Also, volumes V, XVII, XVIII, and XIX of the archdeaconry court registers and III and XV of the consistory court registers, containing wills from the two periods 1484–1493 and 1524–37, were searched for the adjacent parishes of Appledore, Benenden, Biddenden, Ebony, Halden, Rolvenden, Stone, Wittersham, and Woodchurch.

important and more numerous than those arising from confirmation.[20] Fifty-one percent of testators mentioned godchildren in their wills although there was some decline in the proportion over the course of the period (see figs 1 and 2). Comparison of this profile with other local studies is striking. During roughly the same period in Bury St Edmunds the proportion was 13% and at Colchester it was only 8%.[21] It is possible that certain types of developing centres and regions may have put a relatively high store on spiritual kinship and the distinct variations in testamentary practice which existed at a local level clearly call for further investigation.

Many of the references in wills to godchildren are in the form of formulaic bequests of small amounts, such as 4*d*. or 12*d*., to unnamed beneficiaries, usually with the phrase 'to each of my godchildren'. Two Latin words were used when the testament was not enregistered in English, namely *confilio/confilie* and *filiolus/filiola*. When English was used 'godson', 'goddaughter', or 'godchild' were employed. Some testators, however, chose to refer to their godchildren by name. As shown by the last two columns of fig. 1 and the darker shaded bars of fig. 2, 35% of the wills which contained bequests to godchildren also named one or more of the individuals mentioned and, in the parish of Tenterden itself, the proportion was roughly 50% from the 1510s to 1530s. Unfortunately, as yet, it is not possible to compare this with other places for lack of comparable data, although it is clear that it was not unusual for testators to name godchildren in this period.[22]

The significance of naming was both symbolic and practical. Whereas only an occasional bequest to an unnamed godchild exceeded 12*d*., and the majority were of 4*d*., cash gifts to named individuals averaged 6*s*. 4*d*. Most gifts of household goods, livestock, and all of the few devisements of real estate were made to named individuals. The symbolic significance of naming can also be seen when individuals were named when left quite insignificant sums or items, but this is most apparent in those cases where both anonymous and named bequests were made in the same will. So, for example, in 1509 John Hoore of Tenterden left 3*s*. 4*d*. to his godson John Donet and 4*d*. to each of his other unnamed godsons and goddaughters.[23]

---

[20] Derrick Sherwin Bailey, *Sponsors at Baptism and Confirmation: An Historical Introduction to Anglican Practice* (London: S.P.C.K., 1952), p. 67.

[21] In Bury 154 out of 1181 lay and clerical testators from 1439 to 1530; in Colchester sixteen out of 203 in the late fifteenth and early sixteenth centuries. Dinn, 'Baptism, Spiritual Kinship and Popular Religion', pp. 96–97; Higgs, 'Lay Piety', pp. 210–11. MacFarlane found that nine out of seventy-eight wills for the Essex village of Boreham from 1503 to 1620 contained such bequests: MacFarlane, *Ralph Josselin*, p. 144.

[22] Dinn, 'Baptism, Spiritual Kinship and Popular Religion', p. 98.

[23] Maidstone, Centre for Kentish Studies (CKS), PRC 17/11/306. In numerous cases it is inferred that certain named individuals were godchildren but the relationship is not actually stated as such. These references have not been used for the purposes of statistical analysis. For example, Stephyn Asshenden of Wittersham's will reads: 'To Stephyn Wydyng yf he lyve after the decesse of my wiffe my brasen morter with pestell. To Thomas Norfott 12*d*. To all other my godchildren 2*d*. a pece' (CKS, PRC 32/15/227, 1522).

Figure 1: Godparenthood in Tenterden and Hinterland Parish Wills, 1449–1537

Area and Date Range	Total No. of Wills	A: No. of Wills Mentioning Godchildren	% Mentioning Godchildren	B: No. Which Name Godchildren	'B' as % of 'A'
Tenterden 1449–1474	32	25	78	10	40
Tenterden 1475–1494	38	20	53	3	15
Tenterden 1495–1504	40	21	53	8	38
Tenterden 1505–1514	47	22	47	9	41
Tenterden 1515–1524	51	22	43	14	64
Tenterden 1525–1535	55	19	35	10	53
Tenterden 1449–1535	**263**	**129**	**49**	**54**	**42**
hinterland* 1484–1493	69	37	54	8	22
hinterland* 1527–1537	91	49	54	13	26
Tenterden and hinterland	**423**	**215**	**51**	**75**	**35**

*Hinterland parishes: Appledore, Benenden, Biddenden, Ebony, Halden, Rolvenden, Stone, Wittersham, Woodchurch

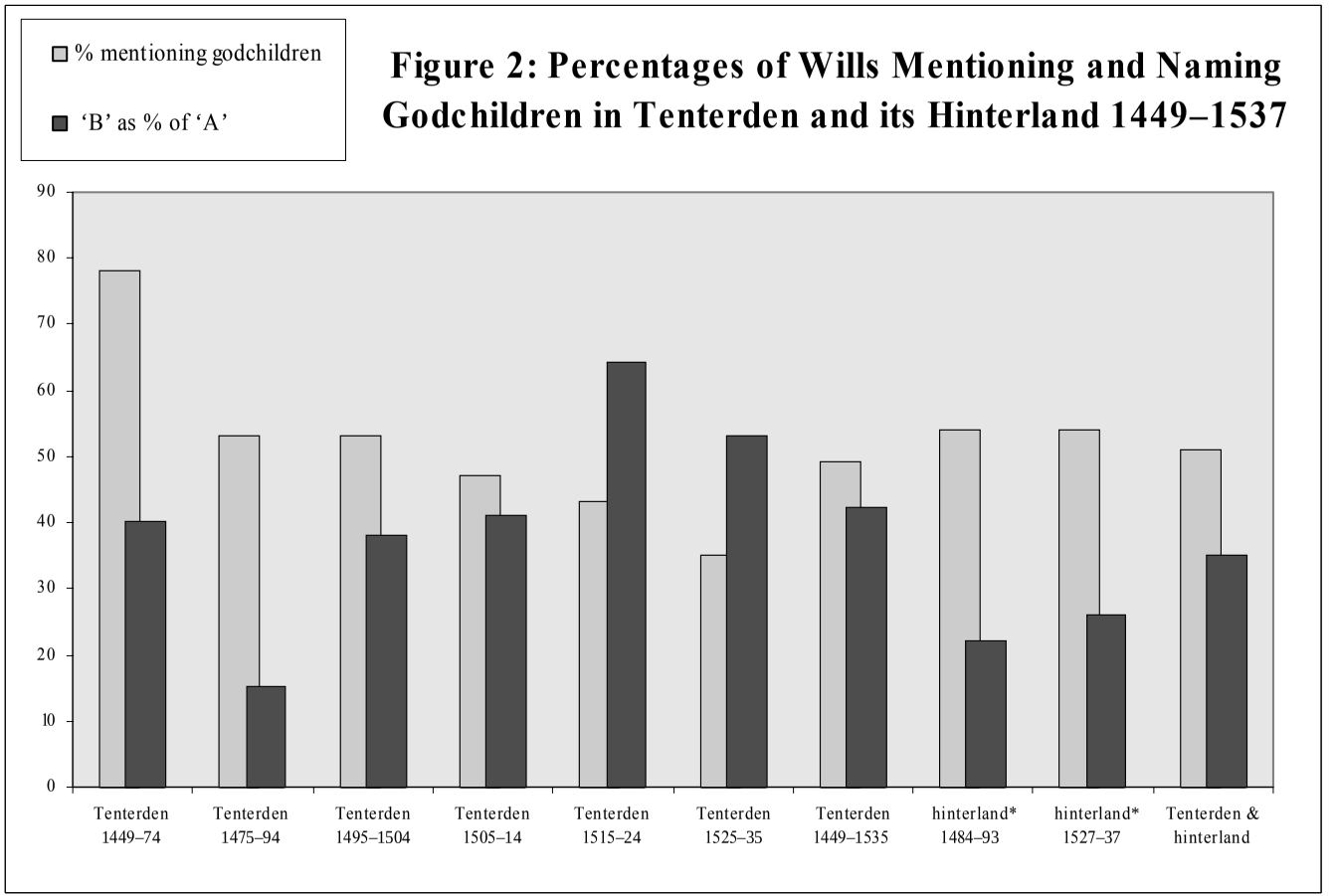


Figure 2: Percentages of Wills Mentioning and Naming Godchildren in Tenterden and its Hinterland 1449–1537

The seventy-five wills which contain bequests to named godchildren mention a total of 120 individuals. Sixteen of these shared the same surname as the testator. A further seventeen had a different surname to the testator but were consanguine or affinal kin. Together those individuals who were related to their godparents comprise 28% of named godchildren. The kinship relationship can be identified in fifteen cases: eleven were the testator's sister's or brother's son or daughter, three were grandchildren, and one a cousin. This suggests that if consanguine kin acted as godparents, they tended to be chosen from among collateral contemporaries and from uncles and aunts in particular. Grandparents, in contrast, had a somewhat peripheral role.[24] To a certain extent, this is reminiscent of Pitt-Rivers's and, in particular, Bestard-Camps's explanation of godparent choice, that is, the conversion of predominantly collateral contemporary consanguine kin into complementary spiritual relations.

Some have concluded that godparents were not chosen from among the child's kin in late medieval England.[25] However, the evidence for Tenterden and at least one other centre indicates that there was a significant correlation between natural and spiritual kinship.[26] By extrapolating from the same-surname godparenthood bonds in the wills it is possible to model first-degree collateral relations as a proportion of all testamentary links and so gain some sense of the extent of this correlation. The proportion of godchildren who were related to the testators who named them in their wills is likely to have been something in the region of 50%. If more distant collateral consanguine kin were drawn upon to act as godparents, as one might expect, the proportion of godparenthood relationships which were mapped onto existing kinship would have been larger still, making these types of links a major, if not the predominant, element of spiritual kinship in Tenterden and its hinterland.[27]

Three qualifications are required, however. First, it is possible that testators were more likely to name godchildren when making bequests to them if they were relatives. Secondly, the majority of the wills were made by men, who were statistically more likely than women to share their family name with a godchild to whom they were related.[28] Thirdly, will makers tend to represent a social and demographic

[24] This accords with Dinn's findings for Bury St Edmunds: Dinn, 'Baptism, Spiritual Kinship and Popular Religion', p. 98.

[25] Hanawalt, *Ties that Bound*, p. 247.

[26] Dinn, 'Baptism, Spiritual Kinship and Popular Religion', p. 98.

[27] The ratio of different-surname to same-surname first-degree relations is at least 3:1 for any given individual. In Bury St Edmunds Dinn found that 9% of testators who mentioned godchildren made reference to individuals with whom they shared the same surname: Dinn, 'Baptism, Spiritual Kinship and Popular Religion', p. 98.

[28] Of all those testators in Tenterden and hinterland parishes who mentioned godchildren, only fifty-three or 25% were women and they were responsible for twenty-six out of 120, a proportion of 22% of the references to named godchildren. Of these twenty-six, two had the same surname as the female testator who remembered them, not as high a proportion as for the male wills (fourteen out of ninety-four references).

group comprising families which were better off, more stable, more biologically successful, and so larger than the majority and, therefore, more likely to have a pool of collateral kin to choose from when selecting godparents.[29] These qualifications notwithstanding, the proportion of 28% of named godchildren who can be shown to be related to their godparent benefactors should be taken as a bare minimum. However, as an estimate of the proportion of godchildren in the population as a whole who were related to their godparents, 50% may be a little high. The true figure probably lies somewhere between the two but the likelihood that more distant kinship to the third or fourth degrees of consanguinity informed the selection of godparents should be borne in mind.

Clearly more work needs to be done to expand the evidence base, but the implications are, nevertheless, profound. Close collateral kin, especially uncles and aunts, were regularly chosen as godparents and, even if they did not constitute the majority, they were a very significant element within spiritual kinship. As the point from which these wider kinship bonds were traced, and so spiritual relations established, the nuclear family played an important role. Other links, however, were mapped onto more distant natural kinship bonds or created entirely new relationships. Were these different types of spiritual kinship perceived and used in correspondingly different ways? The wide variety of references in the wills suggests that godparenthood was subject to polyvalent application and interpretation but was this determined or at least limited by its relationship to natural kinship and the bonds created by marriage?

Examination of the uses of spiritual kinship by testators in Tenterden and neighbouring parishes throws some light on these questions. Gifts as large as 3*s*. 4*d*. were numerous to named godchildren and an amount such as this would make a significant impact upon the prospects of a young person in terms of marriage and the establishment of household. Even larger legacies were not uncommon, and regardless of the amount, there was usually no stipulation as to their intended purpose. Occasionally, however, this was made explicit. For example, John Tiler of Tenterden left 2*s*. to his godson William Netter, 20*d*. and two hives of bees to his godson Thomas Donne, and 12*d*. to every other godchild, but willed also that after the death of his mother, some of his lands and tenements and 5 marks should go to his godson John Birchile and 5 marks to his goddaughter Thomasina Birchile, in both cases when they married. John Tiler made no reference to any children of his own.[30] Cases such as this suggest that one of the primary concerns for godparents who left their

[29] Clive Burgess, 'Late Medieval Wills and Pious Convention: Testamentary Evidence Reconsidered', in *Profit, Piety and the Professions in Later Medieval England*, ed. by Michael Hicks (Gloucester: Alan Sutton, 1990), pp. 14–33 (p. 15); Keith Wrightson and David Levine, *Poverty and Piety in an English Village: Terling, 1525–1700* (New York: Academic Press, 1979), pp. 96–97; Norman P. Tanner, *The Church in Late Medieval Norwich* (Toronto: Pontifical Institute of Mediaeval Studies, 1984), pp. 113–16.

[30] CKS, PRC 17/9/211, 1504.

spiritual kin gifts in their wills was to assist them in marriage and to help them become established economically and domestically in independence from their conjugal families and households.

Although this purpose was not usually articulated it is reasonable to assume that this formed the major element of the rationale behind gifts, which are best interpreted in terms of the ideological basis of godparenthood as defined by Pitt-Rivers, that is, to assist in the fulfilment of the individual child's personal destiny, especially in the establishment of his or her own nuclear family. This transition meant the dissolution of the conjugal family and, therefore, in supporting the child, godparents took the part of anti- or co-parents. This is made explicit in Godly Bennet of Woodchurch's will, in which she remembered two goddaughters. To the first, Elizabeth Ford, she left a 'heiffer budd' at the age of sixteen. To the second, Godley George, she bequeathed two pairs of canvas sheets, her best fringe, best chest, a salt cellar, a brass pot, a 'grete round panne', a candlestick, her 'little skellet', a blanket, her best coverlet, two 'grete pylowes', and some pewterware. Godly George was to receive all this on the day of her marriage, provided she marry by the counsel of Godly Bennet's son and 'other honest men'. There was, however, a further proviso: 'I will that if the said Godle George will go home to her mother and dwell at home with her then I will that she shall not have the frenge nether my best coverlett that I have before ordeyned to her'.[31] This offered an incentive for Godly George to make a permanent break from her conjugal household and to pursue the establishment of her own family and domestic unit. Due to their nature as testamentary gestures such gifts formed part of a redistribution of resources from nuclear families at the end of their life cycles to those in the process of formation. In this way spiritual kinship was just one of a number of conduits for the transmission of resources from one generation to the next which lay outside, and was complementary to, the formal domain of jural relations. The value of bequests appears to have been enhanced when the testator had few or no natural heirs to provide for, even when there is no evidence to suggest that godchildren were related to their benefactors.

In some cases, godparents passed resources to the heirs of collateral consanguine kin where perhaps their own natural heirs were more limited. In this way godchildren could be adopted as surrogate heirs and family patrimony preserved. Stephen Blossom, for example, mentioned no children in his testament but willed that after his wife's death a number of legacies were to be paid to his cousins for three years from his house and lands, after which time this property was to pass to his cousin and godson John of Bushoppe.[32] Arrangements such as these may have been part of a general practice similar to that described for Formentera by Bestard-Camps. That is, 'a way of strengthening the principal patrimonial line by returning to the principal heir the possessions of immediate collateral relations distanced from the house.

[31] CKS, PRC 32/14/1, 1523.

[32] CKS PRC 17/15/128, 1522.

Spiritual kinship, in creating an individualised relation between collateral relations, played an important role in these inheritances and sometimes became the preferred vehicle for gifts'.[33] The economic importance of godparenthood in terms of ensuring the continuity of patrimony has been noted also as a feature of testamentary practice in Bury St Edmunds.[34]

The above cases illustrate the dual spiritual and social nature of the godparenthood bond as theorized by Gudeman. It remained ideologically distinct from other forms of relation but was given varying content through application in the social realm. For example, in the many instances where a testator remembered a number of godchildren they often appear to have favoured those to whom they were related. So, John Elfye who left lands to his godson John Elfye also bequeathed 4*d*. to each one of his godchildren, a cow to his goddaughter Elizabeth Watte, and 33*s*. 4*d*. to his godson John Jordan at the age of twenty-two or when he married.[35] Four out of five of the cases where real estate was bequeathed to godchildren explicitly state that they were related to the testator, but in each case the spiritual relationship appears to have provided the rationale for the gift or at least it was expressed as such. Often, the kin relationship between the godparent and godchild is only discernible from references to other kin and is not made explicit in the gift itself. For example, John Borow of Biddenden left 6*d*. to each of his godchildren but also bequeathed 40*s*. to his goddaughter Joan Bygge at the age of sixteen whom he identified as the daughter of Walter Bygge. It is only from a reference later in the will to John's daughter Anne Bygge, wife of Walter Bygge, that we know Joan was the testator's granddaughter.[36] So, although spiritual kindred who were also relatives were often favoured and prioritized and these types of links appear to have had a different and specific content compared to other godparenthood bonds, they were nevertheless defined as spiritual relations rather than consanguine or affinal kinship. This can be seen also in Laurence Daye's bequests. He left 6*s*. 8*d*. to his godson Richard Daye whom he also identified as his brother Martin Daye's son. This bequest sits in the middle of a list of gifts to his brothers, his sister, three other children of his brother Martin, another godson named Harry Frengham, and a general gift of 8*d*. to each of his other, unnamed godchildren. The careful and deliberate use of terminology highlights the distinctions which were drawn between bonds which were perceived as spiritual and moral as opposed to natural.[37] The wills suggest that godparenthood involved a

[33] Bestard-Camps, *What's in a Relative?*, pp. 144–45.

[34] Dinn, 'Baptism, Spiritual Kinship and Popular Religion', p. 98. Inheritance by nephews in the absence of sons has been noted as a strategy carried out by merchant families in late medieval English towns to maintain wealth within the merchant class: Jennifer Kermode, 'Sentiment and Survival: Family and Friends in Late Medieval English Towns', *Journal of Family History*, 24 (1999), 5–18 (p. 10).

[35] CKS, PRC 17/17/15, 1524.

[36] CKS, PRC 17/5/171, 1489.

[37] CKS, PRC 17/5/151–2, 1489.

conversion of the kinship bond at baptism or confirmation from a natural to a spiritual relation. This involved more than an intensification of an existing kinship relation but created what was perceived as a different type of moral, pious, and religious bond similar to that found in those studies of Mediterranean and Latin American societies which mainly inform the theoretical framework established by Pitt-Rivers and Gudeman in particular. It is necessary, therefore, to move beyond discussing whether godparenthood extended or intensified existing kinship bonds and focus instead on how different types of kinship were perceived and applied and the ideological and functional relationships between them.

Multiple godparenthood has been noted as a feature of spiritual kinship in Bury St Edmunds in this period and, as evidenced from the examples given above, was common also in Tenterden.[38] Although general bequests to unspecified numbers of godchildren provide no indication of the numbers of spiritual kin which testators actually had, those wills which list godchildren by name provide an indication of the limits of the practice and the strategies which lay behind it. The majority (sixty-six out of seventy-five) of testators who named godchildren in their wills mentioned only one or two whilst often also making a general bequest to unspecified numbers of godchildren. Nine wills indicate that a testator definitely had more than three godchildren and four of these show a minimum of five spiritual kinship relations. In addition to these, we know from William Preston's will that Richard Austyn had at least five godchildren and Juliana Cutbushe of Biddenden left 4*d*. to each of her husband's six godchildren.[39] It is apparent either from the wealth indicated in their individual wills or from what we know of their wider families in this period that each of these testators was relatively prosperous.[40] Patronage by wealthy godparents, particularly those belonging to well-established local families, of the less well-off and more transient is documented as an aspect of spiritual kinship elsewhere.[41] Indeed, it is generally argued that if the godparent and godchild were of different status then the fundamental ideological basis of the institution of spiritual kinship demands that the godparent be of higher social status to the child and the parents.[42] The benefits of such patronage did not of course accrue only to godchildren but were shared also, not necessarily in equal measure, by parents and godparents.[43] It is clear

[38] Dinn, 'Baptism, Spiritual Kinship and Popular Religion', p. 100.

[39] CKS, PRC 17/6/10, 1493; PRC 17/5/200, 1490.

[40] Most belonged to families for whom there are numerous extant wills.

[41] Dinn, 'Baptism, Spiritual Kinship and Popular Religion', pp. 98–100; Pitt-Rivers, 'Ritual Kinship in the Mediterranean', p. 324.

[42] Pitt-Rivers, 'Ritual Kinship in the Mediterranean', p. 322; Pitt-Rivers, *The Fate of Shechem*, p. 70; Gudeman, 'Spiritual Relationships', p. 234.

[43] Bernard Vernier, 'Putting Kin and Kinship to Good Use: The Circulation of Goods, Labour, and Names on Karpathos (Greece)', in *Interest and Emotion*, ed. by Medick and Sabean, pp. 62–68; Mintz and Wolf, 'Ritual Co-parenthood', pp. 346–48, 358–60.

also that many of the relations of spiritual affinity which are visible in the wills represent bonds between households and families of equal social standing. Relationships established between natural and spiritual parents, or the *compadre* as it has been termed, were conducted for mutual social, economic, and symbolic benefit. The bequests to godchildren are just one aspect of a set of relationships which was employed in a deliberate strategy to build networks of affinity. Families belonging to certain social groups forged networks of reciprocal bonds as part of a self-conscious effort to protect and fashion identity, increase the stability of the social group, and further economic and political success. They worked also to bring solidarity to kin outside the nuclear family which were linked through marital alliance.[44]

Whatever the social and economic functions of godparenthood, testamentary gifts to godchildren could be deeply pious in motivation and were probably always viewed in religious and moral terms. The formal religious duties of godparents are detailed in the order of baptism in the Sarum *Manual*. They were charged with ensuring that the child learn the paternoster, Ave Maria, and the Credo and be confirmed, ideally by the age of seven but sooner if possible. It is interesting that at one point in the order of baptism it is the godmother alone who is charged with the duty of educating the godchild in the rudimentaries of the faith which hints at the special role women may have played in the education of the very young.[45] Godparents were seen as 'sureties before God' for their spiritual children and their responsibilities did not end after early childhood. They were instructed to 'frequently admonish' the godchild 'when they are grown or capable of discipline, that they guard their chastity, love justice, hold to charity, and above all things are bound to teach them the Lord's Prayer and angelic salutation, the symbol of the faith and how to sign themselves with the sign of the cross'. There is evidence that godparents could carry out their responsibilities for the moral education of their godchildren with some zeal.[46]

The symbolism of the godparents' role in the rite of baptism speaks profoundly of their spiritual parenthood of the child. They presented the child to the priest and raised her, spiritually reborn, from the font.[47] Throughout the rites of the catachumenate and baptism itself they spoke on behalf of the child in the first person, renouncing the devil and all his works and pomps and declaring faith in God the Father, Jesus Christ, and the Holy Spirit. Crucially, however, if the baptized was old enough to speak for herself then the only questions to which the godparents replied were those concerning the godchild's name. Repeatedly throughout the catachumenate and

[44] Mintz and Wolf, 'Ritual Co-parenthood', pp. 348, 352–60; Pitt-Rivers, 'Ritual Kinship in the Mediterranean', p. 326.

[45] J. D. C. Fisher, *Christian Initiation: Baptism in the West* (London: S.P.C.K., 1965), pp. 166, 175; Robert N. Swanson, *Catholic England: Faith, Religion and Observance before the Reformation* (Manchester: Manchester University Press, 1993), pp. 8–9.

[46] Fisher, *Christian Initiation*, pp. 177–78; MacFarlane, *Ralph Josselin*, p. 144.

[47] Fisher, *Christian Initiation*, pp. 172–74.

baptism the priest asked the child's Christian name and each time the godparents provided it. In a very real sense they named the child at the point of spiritual rebirth, thereby imparting the individual identity of the baptized and transmitting their own honour and moral standing.[48] There is no way of knowing just how involved godparents were in choosing Christian names but there is evidence that in late medieval England the baptized were often given a godparent's name, and this practice has also been documented in some detail for modern peasant societies.[49] In and around Tenterden, one in three godchildren mentioned by name in the wills had the same Christian name as a godparent, and in some cases all of a testator's godchildren shared their name with their benefactor. For example, all three of Peter Wynday's godsons were called Peter, and Richard Benet's two godsons were also his namesakes.[50]

Relations of reciprocity between godparents and godchildren were created by baptism and confirmation. Godchildren do not appear to have been expected to repay sponsorship with material giving but rather in religious terms.[51] This is eloquently expressed by Thomas Wode of Tenterden who, in 1526, ordained that at two separate times after his death, 20*s*. be spent in Masses and other charitable deeds for the soul of Thomas Norland, his godfather, his own soul, and those of others in the parish church of Stone in the Isle of Oxney near Tenterden, presumably where his godfather had lived. He willed the same for his godmother, the mother of master Roger Harlackenden, in the parish church in neighbouring Woodchurch. In an awareness of his own needs after his death, he left 12*d*. to each of his godchildren.[52]

Other indications of the role which godparents may have played in shaping the piety of their spiritual kin are discernible through close and comparative examination of testamentary evidence in conjunction with other sources. Work on piety in Tenterden using this approach is documented elsewhere and its bearing on the subject of this essay can be outlined briefly.[53] Enduring traditions in piety as expressed in wills were transmitted within multi-generational patrilineal families so as to suggest

---

[48] Fisher, *Christian Initiation*, pp. 172–73, 178; Pitt-Rivers, *The Fate of Shechem*, p. 70.

[49] Dinn, 'Baptism, Spiritual Kinship and Popular Religion', p. 103; Bestard-Camps, *What's in a Relative?*, pp. 28–42.

[50] Thirty of the godchildren in men's wills and six in women's. In addition, three testators named John had goddaughters named Johanna and two named Johanna had godsons named John. In Bury St Edmunds Dinn found that 34% of godparents had godchildren with the same Christian name: Dinn, 'Baptism, Spiritual Kinship and Popular Religion', p. 103. CKS, PRC 32/15/73, Woodchurch 1484; PRC 32/15/225 Woodchurch 1533.

[51] Dinn, 'Baptism, Spiritual Kinship and Popular Religion', pp. 101–02.

[52] CKS, PRC 17/17/158.

[53] Robert G. A. Lutton, 'Heterodox and Orthodox Piety in Tenterden, *c*. 1420–*c*. 1540' (unpublished doctoral thesis, University of Kent, 1997), pp. 123–83. (The thesis is forthcoming as *Reconstructing Piety; Heterodoxy and Orthodoxy in Pre-Reformation Tenterden*, Royal Historical Society.)

relatively coherent and distinct patterns of practice. A diverse spectrum of testamentary piety was identified across a number of sampled families who all left a relative abundance of wills. Three relatively distinctive polythetic pious bands were discernible across this spectrum.[54] One group of families tended to make wills in which they gave regularly, relatively lavishly, and diversely to traditional religious concerns; a second group gave rarely, sparsely, and narrowly; and, in the middle of the pious spectrum, a third gave moderately and represented the predominant pattern of practice in the parish. If the named godparenthood links in the Tenterden wills are traced for these sampled family names, a clear pattern emerges. The middle pious band was linked by godparenthood with the groups either side of it in the pious spectrum. In contrast, the least generous givers did not mention any such relationships with the most generously religious, or vice versa. This suggests that godparenthood was a factor in shaping coherent and distinct traditions of piety, and reflected the self-conscious attempts of groups of families and kin to fashion a sense of identity which may have been defined by their membership of relatively distinct social and ethnic (in the broadest sense) groups.

Spiritual kinship would especially have had the effect of reinforcing ethnicities and identities over the generations, when collateral kin were chosen to fulfil this role. Mentioning godchildren by name in wills may have provided one way to emphasize and strengthen strategically important bonds. Work on marriage and kinship in late medieval and early modern Kent by Diana O'Hara has shown that the choices and behaviour of the young were closely circumscribed by an all pervasive ideological and moral system of kinship which entailed values such as goodwill, family honour, respectability, dependence, reciprocity, and commitment. This highlights 'the psychological, social and economic pressures which constrained a real freedom of action and within which individual behaviour was contained'.[55] With its strong correlation to natural kinship, godparenthood would have reinforced the influence of family and kin, not least in the field of piety.

The importance of godparenthood would have varied over time and may have been greatest at key moments in the complex family histories which could be created by death and remarriage. In times of crisis, which came often when mortality rates were high, kin ties could be strengthened, in the words of Miranda Chaytor, 'to a point where the distinction between the conjugal unit and the wider kinship system

[54] Each group is defined in terms of a set of characteristics, such that each family exhibits most of the characteristics and each characteristic is shared by most of the families.

[55] Diana O'Hara, '"Ruled by my Friends": Aspects of Marriage in the Diocese of Canterbury, *c*. 1540–1570', *Continuity and Change*, 6 (1991), 9–41 (p. 13); Diana O'Hara, *Courtship and Constraint: Rethinking the Making of Marriage in Tudor England* (Manchester: Manchester University Press, 2000); Miranda Chaytor, 'Household and Kinship: Ryton in the Late Sixteenth and Early Seventeenth Centuries', *History Workshop Journal*, 10 (1980), 41–43; David Cressy, 'Kinship and Kin Interaction in Early Modern England', *Past and Present*, 112 (1986), 38–69.

was virtually eroded'.[56] Active kinship bonds between families joined by marriage, whilst providing a degree of stability and continuity to family relations through crises of mortality and economic hardship, may also have worked to bring a greater degree of coherence and continuity to household piety. It was a common experience to lose a parent in childhood or adolescence, and at such times relatives had a greater influence over the nuclear family.[57] Collaterals would have been especially significant during these crises, and godparenthood may have further strengthened their influence over young relatives. In this way the lineal transmission of piety may have been reinforced and traditions of practice and belief sustained.[58] The obvious way to pursue these questions is to use testamentary evidence to trace continuities in piety between godparents and their godchildren. This is painstaking work but preliminary investigations are suggestive. However, any conclusions on how spiritual kinship reinforced coherent pieties among groups of interrelated families must await detailed prosopography based on a wider search of testamentary evidence.

In conclusion, the theories and models developed within social anthropology in the study of godparenthood have much to offer the historian of late medieval spiritual kinship. The findings presented here suggest that ideas about the ideological foundations of godparenthood, its relationship to family and kinship, flexibility to social application, and essentially dual nature are of considerable pertinence and deserve further attention.

One aspect of spiritual kinship in Tenterden and its environs which these approaches help to elucidate was its significant correlation to natural kinship to an extent not previously suggested for late medieval England or Europe as a whole. The frequent use of close collateral kin and the importance of the nuclear family as a point from which relationships were traced when making choices about godparents runs counter to received wisdom concerning godparenthood in the late medieval period. This, and the seemingly abnormally intense preoccupation with godparenthood in the wills compared to practices in other centres, raises a host of questions about the causes of what may be a distinctive feature of a particular, but not necessarily unique, type of local and regional society and economy. There is not space here for detailed discussion of the dynamics of Tenterden's economic development in this period and how changes in property relations, trade, land use, and social stratification may have been related to the functionality of spiritual kinship. What can be said is that Tenterden comprised a rapidly developing urban core strongly connected to a more rural hinterland, which saw the consolidation of significant

[56] Chaytor, 'Household and Kinship', p. 38.

[57] Ralph A. Houlbrooke, *The English Family 1450–1700* (London: Longman, 1984), p. 20; O'Hara, '"Ruled by My Friends"', pp. 18–19.

[58] Houlbrooke, *The English Family*, pp. 44, 48; Keith Wrightson, 'Kinship in an English Village: Terling, Essex 1500–1700', in *Land, Kinship and Lifecycle*, ed. by Richard M. Smith (Cambridge: Cambridge University Press, 1984), pp. 313–22 (p. 330).

wealth by a relatively small and influential group of families (which tended to leave large numbers of wills), essentially engaged in pastoral farming and semi-industrial craft activity and trade.[59] It is possible that Tenterden's economic base was reflected in its godparenthood practices, due to the ways in which spiritual kinship cemented economic relations between interdependent households and social and occupational groups as has been documented for other societies.[60] Attention to the geographic and social dynamics of godparenthood may shed light on the causes of regional variations in the significance of spiritual kinship.

On the basis of the evidence discussed above, the work of Pitt-Rivers and, more recently, Bestard-Camps has considerable explanatory force and relevance in terms of its theorization of godparenthood as involving the conversion of collateral consanguine kinship into complementary spiritual relationships. This is especially apparent in the way godparents used testamentary giving to assist their spiritual kin in their efforts to marry and to establish themselves in households of their own and so aided them to make the break from their conjugal households. For testators who did not have children of their own to provide for when they made their wills godchildren could serve, in effect, as surrogate heirs. Indeed, significant amounts of capital resources may have passed between the generations in this way, outside of the normal domain of jural relations and inheritance practices, especially when immediate collateral relations acted to ensure the continuity of patrimony.

Godparenthood as represented in the Tenterden and Wealden wills appears to have been invested with a dual nature in the sense conceived of by Gudeman, in that it was distinct from other types of relationship, due to its essentially spiritual and moral nature, but could vary in intensity and social application in terms of whether it overlay existing kinship bonds or the extent to which it could be used to strengthen alliances created through marriage, for example. This suggests that we need to move away from debates about whether godparenthood extended or intensified consanguine and affinal kinship to investigation of the range and complexity of what may well have been a much wider repertoire of kinship relations than we have previously conceived of for the late medieval period.

Finally, godparents played an important, although as yet little investigated, role in the spiritual, moral, and social education of the young. Spiritual kinship may well have strengthened multi-generational continuities in piety and helped to forge and maintain social and ethnic identities, particularly through the influence of collaterals. Any discussion of the mechanisms and dynamics of cultural transmission in this period should consider godparenthood as a particular and essential aspect of relations of family and kinship.

---

[59] Lutton, 'Heterodox and Orthodox Piety', pp. 220–48; Michael L. Zell, *Industry in the Countryside: Wealden Society in the Sixteenth Century* (Cambridge: Cambridge University Press, 1994).

[60] Mintz and Wolf, 'Ritual Co-parenthood', pp. 358–62; Vernier, 'Putting Kin and Kinship to Good Use', pp. 28–76.

Kinship and Family in the Community

PREFACE TO SECTION

Public and Private Lives in the Medieval Household

CHRISTOPHER DYER

The theme of marriage, family, and household seems to focus our attention on the private sphere. Domestic life is difficult to research at any time, but in the medieval period, with its limited body of source material, historians can hope to obtain useful evidence only with the greatest difficulty.

We should not ignore the self-contained internal life of the household. Production both in agriculture and in many crafts was based on the home of the peasant or artisan, and much of the labour came from members of the family, or from servants who lived in the house. Even when outsiders were employed by the day, they were often rewarded partly with meals at the employer's table, so they became temporary members of the household. In the case of many peasants and rural artisans, at least a proportion of the food eaten, fuel burnt, and materials used by the household came from its own land, or from common rights attached to the land. Much time was spent in the company of household members, and the young were socialized and trained by their parents or in the company of the servants. Because so much work and social interaction was confined within the house, many details of medieval life are concealed from the view of the historian. We have to deduce from such hints as the single hearth in the hall that much household sociability was located around the fireside, with everyone gathered together in the cold of winter. The single chair recorded in the late medieval inventories signals the authority of the male head of the household, at the top of the family hierarchy.

Fortunately, relationships within families are not entirely a closed book to us because no household was an island. Each house was located within a hamlet, village, or town, and even if set apart physically from neighbours, and surrounded by ditches and fences, it still was linked with them in sharing common facilities and was drawn into cooperation with them to discharge responsibilities to the landlord or the state. Groups of households joined together to form the congregation of churches

and chapels and to create religious fraternities. Everyone's behaviour was regulated by the Church and by the hierarchy of secular authority. For example, the basic rules governing the transmission of property were often decided by prevailing legal codes, or by lords, though families might find ways of modifying them.

The apparently private and enclosed household was in reality practising constant exchange with outsiders, selling produce and buying goods, hiring labour and negotiating over the community facilities on which its welfare depended, such as water and fuel supplies, common pastures, and public markets. Even the most private episodes within the family had a strong public dimension. Marriage involved not just the two families who negotiated the alliance, but also a much wider circle of kin and neighbours, who attended and therefore witnessed the ceremonies and in effect sanctioned the formation of the new household. Presumably in the Middle Ages, as in the early modern period, unsuitable matches would have been the objects of community disapproval. In the case of unfree peasants, the lord's permission had to be obtained, or at least purchased. Historians of English rural society are better informed about the arrangements at the other end of the family life cycle, when a peasant couple or a widow or widower retired. This private decision had repercussions far beyond the confines of the household. Firstly, the retirement would have sometimes resulted from pressure from the lord or the community, as the neglect of the buildings and the land threatened the farming efficiency of the whole community and might have led to non-payment of rent, in some cases increasing the burden for other tenants. Secondly, the actual retirement contract, whereby the old person handed over the holding to a younger successor in exchange for a promise of support, would be recorded in the lord's court, because he needed to oversee the use of the tenement. The contract was thus known throughout the village, and the retired person would have been protected from serious neglect by the community acting either informally or through the manor court.

As historians, we should appreciate the long term changes that resulted from the interaction between family units and the wider world. The different types of lordship, the rise and fall of the market, and the upheavals and costs of wars all influenced the formation of households and their subsequent development. Small changes in fertility and mortality within thousands of individual families could have wide repercussions for growth and contraction in the economy as a whole.

These essays are concerned with the most intimate details of the family. We know at least a little about the inner secrets of family quarrels, wife beating, and adultery because there was a public interest in these matters. Far from allowing husbands and wives to pursue their quarrels behind closed doors, wider public concerns needed to be protected. States, lords, and the leaders of communities had a strong interest in the orderly possession and transmission of landed property. Quarrelling families, the collapse of marriages and households, the welfare of dependents, and all the consequences of the breakdown in personal relationships required the intervention of the courts. And we should not underestimate the general commitment to moral codes and

Christian teachings, which in many cases was directed not to the punishment of the sinful, but to reconciliation and the healing of rifts through negotiation and arbitration.

These essays remind us, however, of the difficulties of generalizing over societies which shared some cultural assumptions, but which also varied in such matters as the power of the state and social and economic circumstances. So we find that in the Netherlands violent quarrels between families were, even at the end of the Middle Ages, settled by payments of compensation supervised by the authorities rather than by the punishment of the offender. This would have been inconceivable in England with its more powerful centralized state. We are also reminded that family quarrels occurred more commonly in peasant societies practising partible inheritance than those where the land passed to a single heir. In the same way, sexual morality and family life differed between town and country.

The common theme of these essays is that families and households functioned within wider societies, and the ability of outsiders to intervene in family matters gives historians the opportunity to investigate personal relationships.

Vengeance Is Ours? The Involvement of Kin in the Settlement of 'Cases of Vengeance' in Later Medieval Holland

P. C. M. HOPPENBROUWERS

> Vengeance is mine, and reprisal by the time that their feet will stagger, for the day of their doom is close by.
>
> Deuteronomy 32. 35

Introduction

Medieval society was a violent world, even compared to modern standards.[1] However, it remains to be seen whether local and central authorities at the end of the Middle Ages were less successful than they are now in bringing violent crimes before law courts (rather than punishing them, which are two quite different things). In spite of a heavy load of long-standing scholarship pointing to a more balanced view,[2] the story in too many historical surveys and textbooks still

[1] The homicide rate in Amsterdam in the second quarter of the sixteenth century was about 0.38 per 1,000 inhabitants. In that period Amsterdam's population grew rapidly, from around 11,000 inhabitants in 1514 to about 30,000 in 1560. Calculated from J. E. A. Boomgaard, *Misdaad en straf in Amsterdam: Een onderzoek naar de strafrechtspleging van de Amsterdamse schepenbank 1490–1552* (Zwolle: Waanders; Amsterdam: Gemeentearchief, 1992), p. 78, table 3.3. In the district of North Holland the number of aggressive crimes per 1000 households averaged 51.3 (= *c*. 10 per 1000 inhabitants) in 1369. William H. TeBrake, 'Crime and Punishment in Rural Holland during the Late Fourteenth Century', *Tijdschrift voor Sociale Geschiedenis*, 19 (1993), 265–87 (pp. 279–83). For the homicide rates in a number of German towns in the fourteenth century, see Paul Frauenstädt, *Blutrache und Todtschlagsühne im Deutschen Mittelalter* (Leipzig: Duncker & Humblot, 1881), p. 46, n. 32.

[2] For the County of Holland in the late Middle Ages there are several outstanding articles from the late nineteenth and early twentieth century from which I have greatly profited. The

goes that during the entire medieval period weak and underdeveloped 'states' were ineffective in guaranteeing the physical integrity and safety of their subjects. Consequently, in warding off violence, either as a threat or as a deed committed, individuals had no other choice than to rely on the support of their family. On the one hand this would have assured the endurance of a culture of violence in which vendettas between kin groups were the order of the day; on the other hand it would explain the maintenance of an age-old and in many respects even Proto-Germanic 'system of private justice' that had to prevent acts of retaliation from proceeding into endless cycles of violence.[3]

This suggestive impression is in need of correction. Foremost of all, no 'system of private justice' existed in the part of later medieval Europe I am about to consider. Ever since Charlemagne once again made the wilful killing of people into a crime punishable by death, manslaughter and grievous bodily harm were firmly located within the context of public criminal law. Of course public authority did not function smoothly in the centuries after Charlemagne's death — to put it mildly — but this started to improve when kingdoms and principalities gradually evolved into territorial, centralized, bureaucratic states that were striving for a monopoly of violence. Then a legal order took shape which, with all its inadequacies, was increasingly intolerant towards private 'games' of revenge and feuding. It was aimed both at neatly limiting those situations in which taking vengeance was allowed according to law, and at trying offenders in public criminal courts.[4] At the same time, this new

most important are the following: three articles by Robert Fruin, printed in *Robert Fruin's verspreide geschriften*, ed. by P. J. Blok, P. L. Muller, and S. Muller Fz., vol. VI, *Studiën over staats- en rechtsgeschiedenis* ('s-Gravenhage: Martinus Nijhoff, 1902), respectively: 'Over zoen en vrede in Holland, Zeeland en Utrecht' (pp. 274–314; orig. 1886), 'Over waarheid, kenning en zeventuig in de rechtspleging van Holland en Zeeland' (pp. 315–66; orig. 1887), and 'Over den aanbreng van doodslag bij de vierschaar in Kennemerland en in het Noorderkwartier van Holland' (pp. 367–84; orig. 1897); M. S. Pols, 'De middeleeuwsche rechtspleging in zake van doodslag', *Verslagen en Mededeelingen der Koninklijke Akademie van Wetenschappen, Afdeeling Letterkunde*, 3rd series, 2 (1885), 203–42; T. van Riemsdijk, 'Het zevendeel leggen na doodslag in Kennemerland en Westfriesland', *Verslagen en Mededeelingen der Koninklijke Akademie van Wetenschappen*, *Afdeeling Letterkunde*, 4th series, 1 (1897), 341–441; idem, 'Het vierendelen en zevendeel leggen na doodslag', in *Rechtshistorische opstellen, aangeboden aan mr. S.J. Fockema Andreae, hoogleraar aan de Rijksuniversiteit te Leiden* (Haarlem: De Erven F. Bohn, 1914), pp. 45–66; and S. J. Fockema Andreae, 'Familieplicht en -recht bij vergoeding van doodslag', in *Geschiedkundige opstellen aangeboden aan Robert Fruin bij zijn aftreden als hoogleeraar aan de Rijksuniversiteit te Leiden*, ed. by P. L. Muller and others ('s-Gravenhage: Martinus Nijhoff, 1894), pp. 259–87.

[3] Edward Muir, *Mad Blood Stirring: Vendetta and Factions in Friuli during the Renaissance* (Baltimore: Johns Hopkins University Press, 1993), p. 69.

[4] For clarity's sake, this article is dealing with blood vengeance — or rather, with acts of violence that were seen as justifying violent revenge — not with 'feuding' in the specific sense in which it is mostly used when discussing the later medieval period, that is to say, waging

order did not break with the past at once and completely. Ample room was left for the involvement of kin at all stages. The result was a 'mixed system' of dealing with violence and revenge, in which modern elements were mixed up with older ones — some even going back to the early Middle Ages.[5]

Kin groups, on such occasions, were understood as ego-oriented circles of blood relatives up to and including the fourth degree according to canon law. In Holland — on which I am going to concentrate — the kin group was normally mobilized along its four parts or *vierendelen*, the quarterings structured by everyone's four grandparents. For specific purposes, a refined division was applied, first into *vierendelen*, now in the strict sense of all descendants of one and the same pair of great-grandparents and ranging not further than the third degree, and then into *achtendelen* (eight-parts), comprising all descendants of one and the same pair of great-great-grandparents and fully ranging to the limits of fourth-degree kinship.[6] These different divisions, and the uncertain terminology, often hamper a proper appreciation of the role of kin. To make things worse, the position of in-laws and half-relatives (e.g. half-brothers) was not always very clear: sometimes they evidently were included, at other times they pleaded to be left out. [7] Somewhat similar was the position of women. Not surprisingly, we meet them much more often as victims of violent

private war or war on a local scale, or engaging into party strife. Unlike blood vengeance, feuding in this sense was largely an aristocratic activity, but also towns as legal persons could be party, while party strife could infect large portions of local populations, as it did in late medieval Holland. For all such reasons feuding is a much broader phenomenon than blood vengeance, even if evidently they shared common ground. Regrettably, while completing this essay, I had not yet had the opportunity to read the complete text of C. N. W. M. Glaudemans's Ph.D. dissertation '"Om die wrake wille": Eigenrichting, veten en verzoening in laat-middeleeuws Holland en Zeeland (ca. 1350–ca. 1550)', in which both these themes receive ample treatment. Mrs Glaudemans will defend her thesis at Leiden University in June 2003.

[5] For a succinct survey, see R. C. Van Caenegem, 'Straf of verzoening', *Millennium, Tijdschrift voor Middeleeuwse Studies*, 15 (2001), 18–29. It has not been my intention to go further into the details of this long-term development, which anyway was already outlined with perspicacity by German scholars in the nineteenth century, such as Paul Frauenstädt.

[6] Fockema Andreae, 'Familieplicht'; and P. C. M. Hoppenbrouwers, 'Maagschap en vriendschap: Een beschouwing over de structuur en functies van verwantschapsbetrekkingen in het laat-middeleeuwse Holland', *Holland, Regionaal-Historisch Tijdschrift*, 17 (1985), 69–108. On this point, Pols, 'Middeleeuwsche rechtspleging', p. 219, was clearly wrong.

[7] For an example of in-laws or half-relatives (*ongheboren maghe*) who refused to contribute to the compensation money for a homicide, see Van Riemsdijk, 'Zevendeel', p. 424; for cases where stepchildren were considered as full relatives, see *De rechtspraak van den graaf van Holland* (hereafter *RGH*), ed. by T. H. F. van Riemsdijk and J. P. de Monté ver Loren, vol. III (Utrecht: Kemink, 1934), nos 325 and 360. Cf. Hoppenbrouwers, 'Maagschap', pp. 90–92, where I also discussed the position of servants as quasi-relatives. See for a clear case *RGH*, no. 322.

crimes than as perpetrators or accomplices.[8] In criminal trials their role was ambiguous. On the one hand women were allowed to take an active stand in the making of accusations, even if they probably rarely did;[9] on the other hand they were not taken into account in either the payment or the receiving of compensation money (see below), although there is reason for some doubt on this point.[10]

For a closer look at this remarkable judicial encasement of blood vengeance I shall focus on the County of Holland during the second half of the fourteenth century, that is to say, during the period when the Dukes of Bavaria from the House of Wittelsbach were lords of Holland and Zeeland (1349–1433).[11] The sources from this period allow us as it were to take a look behind the scenes of law and administration before it was taken over and 'modernized' by the Dukes of Burgundy, who succeeded to the Bavarian counts around 1430. Part of this 'modernizing' consisted of far-reaching changes in the administration of justice as well as in court procedures, changes that were partly taken from French, Flemish, and canon and Roman law.[12] The extant sources from the Bavarian period are both normative sources — often detailed charters conceded by the count to towns or rural districts, as well as so-called *keuren* or local bylaws, issued by local (most often urban) authorities themselves[13] — and sources that reflect the administration of justice and the

[8] Some examples of the latter: Algemeen Rijksarchief, The Hague (hereafter ARA), *Archief van de Graven van Holland* (Archive of the Counts of Holland) (hereafter AGH) 1862, fol. 3^{r} (more of an accident than a crime really); AGH 1863, fol. 1^{v} (village of Leiderdorp) and fol. 2^{r} (village of Zevenhoven). Maltreatment of women and children during acts of violence could count as an aggravating circumstance.

[9] For example ARA, AGH 1862, fol. 4^{r} (village of Hazerswoude); AGH 1913, fol. 17^{r}; and *RGH*, no. 407 (case from the village of Lekkerkerk brought before the Count's High Council). For an example of a woman who was 'assisted' by a man in pressing charges, see Van Riemsdijk, 'Zevendeel', p. 420. According to Frauenstädt, *Blutrache*, p. 22, in Switzerland women made the accusations for violent crimes in court, so that the men kept their hands free for taking vengeance.

[10] Rudolf His, *Das Strafrecht des deutschen Mittelalters*, vol. I, *Die Verbrechen und ihre Folgen im allgemeinen* (Leipzig: Theodor Weicher, 1920), pp. 304–05. For the doubt, see Hoppenbrouwers, 'Maagschap', p. 91. Cf. also Pols, 'Middeleeuwsche rechtspleging', p. 220, n. 1.

[11] For practical reasons I have left aside Zeeland, which practically formed a double county with Holland, but which had quite distinctive political institutions and customary law.

[12] H. P. H. Jansen, 'Modernization of Government: The Advent of Philip the Good in Holland', *Bijdragen en Mededelingen betreffende de Geschiedenis der Nederlanden*, 95 (1980), 254–64. For the changes in criminal law procedure, especially at the supreme Court of Holland, see Marie-Charlotte Le Bailly, *Recht voor de Raad: Rechtspraak voor het Hof van Holland, Zeeland en West-Friesland in het midden van de 15^{e} eeuw* (privately published, 2001).

[13] For charters we still have to rely on an edition from the mid-eighteenth century: *Groot charterboek der graaven van Holland, van Zeeland en heeren van Vriesland*, ed. by F. van

workings of the judicial apparatus, such as *dingtalen* (law court formulas), accounts of bailiffs, who had the authority to try capital crimes (*baljuwen* of larger districts and *schouten* of main towns), and the arbitral judgements and memoranda of the Council of the Count, which acted as the highest court of justice in Holland.[14] Finally, there is one quite remarkable legal treatise from the beginning of the fifteenth century: the so-called law book of Jan Matthijssen ('John Matthews'), town secretary of Brielle, a small fishing town on the isle of Voorne at the southern extent of Holland.[15] Its contents offer a most valuable and exceptional insight into not only the workings of justice but also a practioner's ideas on law and justice that were deeply rooted in Christian theology and moral philosophy.

'Cases of Vengeance' and Criminal Law

In his law book, Jan Matthijssen uses a special word to indicate those acts of violence that justified blood revenge: *veelike zaken*, literally 'cases of vengeance'. Now Matthijssen nowhere tells us what exactly such *veelike zaken* in Brielle were, but

---

Mieris, 4 vols (Leiden, 1753–56). Editions of the medieval *keuren* of several towns of Holland have been published in the series *Werken* and *Verslagen en Mededе[e]lingen* van de Vere[e]niging [later: Stichting] tot Uitgave der Bronnen van het Oude Vaderlandsche Recht (henceforth: Werken OVR and VMOVR respectively).

[14] In accordance with convention I shall translate both 'baljuw' and 'schout' with bailiff, although a *baljuw*'s office in late medieval Holland came closer to that of an English sheriff. The sources referred to are just partly edited. Accounts of bailiffs by Van Riemsdijk, 'Zevendeel', pp. 395–439; and in *De Rekeningen van de grafelijkheid van Holland uit de Beierse periode uitgegeven door de Werkgroep 'Holland 1300–1500', Serie III. De rekeningen van de gerechtelijke ambtenaren. Deel: 1393–1396 (Baljuwen en drossaards)*, Rijks Geschiedkundige Publicatiën, Grote Serie, 174 ('s-Gravenhage: Martinus Nijhoff, 1980). For the remaining I have consulted the following archives: ARA, AGH 1862–86 (accounts of the bailiff of Rijnland and Woerden, 1368–1401); AGH 1902–27 (accounts of the bailiff of Delfland and Schieland, 1357–1423); AGH 1991–2010 (accounts of the bailiff of The Hague, 1370–96); AGH 1979–86 (accounts of the bailiff of Brielle and Voorne, 1376–96); and AGH 1953–78 and 1726 (accounts of the bailiff ('drossaard') of the Land van Heusden, 1360–1400). The arbitral judgements of the Count's High Council have been edited — with related excerpts from the accounts — in *RGH*, Afdeeling XV, so far as they had not already been printed in Van Mieris's *Groot charterboek* (for a list of verdicts in Van Mieris, see *RGH*, p. 384). *Dingtalen* have been published in substantial numbers in VMOVR. S. Gratama printed a list of existing editions in VMOVR, 6 (1909), 418–21; See also Pols, 'Middeleeuwsche rechtspleging', p. 204, for editions in old prints.

[15] *Het Rechtsboek van Den Briel beschreven in vijf tractaten door Jan Matthijssen*, ed. by J. A. Fruin and M. S. Pols ('s-Gravenhage, 1880). Other medieval legal sources on Brielle have been edited by H. de Jager in Werken OVR, 2nd series, 2 (1901), and P. van Meurs in VMOVR, 3 (1898), 579–82.

careful reading of his text teaches us that they all fell under one category: homicide. Then as now homicide was sharply distinguished from murder, but the dividing line was drawn differently. What made manslaughter into murder was not, as it is today, the fact of premeditation but its secrecy (e.g. killing someone at night in his sleep was murder) as well as intention (e.g. killing someone in a robbery or for money was murder). Matthijssen, quite interestingly, adds a third criterion: a killing is always a murder if no one has (openly) admitted ([*ver*]*liden* in Middle Dutch) that he had committed the act.[16] Since most perpetrators of homicide were wise enough to flee from the scene of the crime, we must take this 'admitting' in a broad sense: apparently fleeing was seen as openly pleading guilty.

If I read Matthijssen and his fragmentary reproductions of the court formulas of Brielle[17] correctly, then in Brielle not even heavy injuries and grave verbal insults were regarded as cases of vengeance. Especially the omission of injuries is remarkable. Still, Matthijssen is clear enough on this matter; he distinguishes two categories of injuries: one called *smarte* ('pain'), comprising in particular deep stabs inflicted by any kind of pointed weapon; the other called *leemten*. The latter literally meant injuries that left the victim permanently paralysed (or 'lame'),[18] but in Brielle this was applied to all wounds that had not been healed within one year plus one day after their infliction. Matthijssen is categorical about their judicial treatment: *leemten* were tried just like *smarten* in an 'ordinary' law court because, just like *smarten*, *leemten* were only threatened with money fines and damages, not with punishment 'on limb, honour, or life'.[19] And Matthijssen's reproduction of the court formula for the trial of *smarten* leaves no doubt that they were *not* seen as cases of vengeance.[20] Why this is remarkable is because elsewhere in Holland *leemten* were generally treated as *veelike zaken* and did imply financial liability for the perpetrator's kin.

---

[16] *Rechtsboek van Den Briel*, p. 195: 'where homicide (*dootslach*) occurs, there has to be someone who admits to it; otherwise it would be murder (*moirt*)'. Cf. Pols, 'Middeleeuwsche rechtspleging', pp. 236–39.

[17] A full text of the *dingtalen* of Brielle is only known from the sixteenth century. It does not bear on cases of vengeance.

[18] Usually, grave injuries were divided into two categories: *leemten* and *corwonden* (deep cuts that were measured and that left permanent scars). For example, the Charter of Amstelland and Gooiland of 1388, *Oorkondenboek van Amsterdam tot 1400*, ed. by P. H. J. van der Laan (Amsterdam: Israel, 1975), pp. 323–28, provisions [9] and [10]. Customary law of Waterland — the district north of Amsterdam — suggests that any loss or incurable damage of any of the 'six limbs', being eyes, hands, and feet, was regarded as *leemte*. *Groot Charterboek*, II, 735 (26 May 1347). One could also administer a 'half injury' (*halve leemte*), which still was considered a case of vengeance but then only asked for a 'half reconciliation'. For example, ARA, AGH 1903, fol. 8^{r}.

[19] *Rechtsboek van Den Briel*, p. 179.

[20] Ibid., pp. 162–66. Cf. also pp. 156 and 138 for the same formula part in other types of trial.

With respect to a third category of offences that in other parts of the Low Countries were admitted as cases of vengeance — verbal insult — the Dutch sources are unanimous: verbal insults could never be used as an excuse to take blood revenge and therefore were not regarded as cases of vengeance. In Holland the general rule seems to have been in line with the saying known from medieval Liège: *li cop fait le werre et nient les parolles* ('a blow makes a feud, words never').[21]

Wherever the line was exactly drawn, the number of cases of vengeance recognized in the criminal law customs of late medieval Holland was extremely limited. It was far removed from the long lists of valid grounds for blood revenge in the barbarian law codes of the early Middle Ages,[22] as well as from later feuding practice — reflecting aristocratic(?) ideas about vendetta — as we know it from Flanders, for example.[23] This means that a relationship that social anthropologists always allege between blood vengeance, on the one hand, and the restitution of injured family honour, on the other, was no longer acknowledged in late medieval Dutch customary law — and did not exist in the mind of a law man such as Matthijssen. This was because, apart from simple manslaughter and inflicting wounds, one could conceive of many other sorts of misdemeanour that from a wider social-cultural perspective certainly were seen as violations of family honour and reputation, ranging from shameful verbal insults to adultery (by a married wife) and rape. To be sure, all such misdeeds, whether heinous crimes or minor offences, were dealt with in law, criminal or other, but in late medieval Holland they were *not* any longer treated as cases of vengeance.

Jan Matthijssen's thinking was shaped far more by moral-biblical notions of the terrifying justice of God than by pre-Christian barbarian ideas on revenge. Apparently forgetting about the basic distinction between reconcilable cases of vengeance and irreconcilable 'heinous crimes' in human law, he started his invocation of God's vengeance with a Latin proverb — *Clamitat ante deum vox sanguinis & Sodomorum / Vox oppressorium, merces detenta laborum*[24] — immediately followed by the explanation that four capital crimes in particular made the Lord very angry and vengeful, and that he would punish equally with hell and damnation: homicide ('the voice of blood') and grave injury (*bloedstortinghe*); homosexuality (*buggherie*); violence done to people from social categories that could not defend themselves (such as widows and orphans); and labour that was not duly paid for.

---

[21] Cited in His, *Strafrecht*, p. 272. But in the neighbouring County of Namur verbal injuries did justify vengeance.

[22] For a survey, see Franz Beyerle, *Das Entwicklungsproblem im germanischen Rechtsgang*, vol. I, *Sühne, Rache und Preisgabe in ihrer Beziehung zum Strafprozess der Volksrechte* (Heidelberg: Carl Winter's Universitätsbuchhandlung, 1915), pp. [48–[64.

[23] R. C. Van Caenegem, *Geschiedenis van het strafrecht in Vlaanderen van de XI^e^ tot de XIV^e^ eeuw* (Brussels: Koninklijke Vlaamse Academie voor Wetenschappen, 1954), pp. 235–42.

[24] *Rechtsboek van Den Briel*, p. 190. On this proverb, see Hans Walther, *Lateinische Sprichwörter und Sentenzen des Mittelalters in alphabetischer Anordnung* (Göttingen: Vandenhoeck & Ruprecht, 1963), II.1, sub C.

But these were the moral preoccupations of a narrow-minded burgher in a small commercial centre. In legal practice *veelike zaken* were different from other, heavier crimes in three fundamental respects. First and foremost, *veelike zaken* were the only crimes that could lead to legally acknowledged, rightful blood revenge within the strictest possible boundaries. Secondly, they automatically implicated both the perpetrator's and the victim's kin in a non-voluntary manner. Thirdly, although regarded as serious crimes that had to be tried in a high court of justice, and therefore as crimes that could lead to loss of 'limb, honour, or life' as well as forfeiture of all possessions, cases of vengeance did not necessarily result in corporal punishment for the perpetrator or in the loss of all his goods; in fact they probably seldom did. The entire judicial machinery was aimed at directing the trying of vengeance cases to a formal reconciliation between the perpetrator and his relatives on the one hand, and the victim's kin on the other. Other, 'real' crimes, on the other hand, were irreconcilable.

All criminal cases — including all cases of vengeance that led to a formal accusation — had to be tried in a high court of justice that had the authority to condemn the accused to death or corporal punishment, without the possibility of appeal. In the countryside such courts were composed of noble vassals of the count, who gave verdicts, and the count's bailiff, who presided and carried out the sentences.[25] In the towns the aldermen gave verdicts while the court was presided over by either the count's bailiff or the local, town's bailiff, depending on who held high jurisdictional rights.

Ways of Enforcing Peace

Not unexpectedly, violence-ridden medieval society was obsessed with the idea of peace. From the eleventh and twelfth century onwards this idea started to penetrate the administration of secular justice in general and the methods of dealing with vengeance cases in particular. This happened in both indirect and direct ways. The former comprised the prohibition of acts of vengeance and feuding at times (during wartime, large fires, floods) and places (within private houses, market places, towns, spaces where law courts were held, churches, and church yards), or directed at certain social categories (women, children, monks) that were all protected by general or special peace arrangements, such as *Pax Dei*, *Treuga Dei*, or *Landfriede*. Under the same general category of indirect peace keeping falls the prohibition of carrying weapons for people who did not belong to the nobility. It was in force, and repeatedly reinforced, in both town and countryside in many parts of later medieval Europe, including Holland.[26]

[25] Unless another lord held the rights of high jurisdiction. In that case his bailiff would preside and his vassals would give verdict. In the second half of the fourteenth century the Counts of Blois, for instance, held such rights in a considerable number of towns and villages scattered over Holland.

[26] Surveys of all such measures in His, *Strafrecht*, pp. 282–94; Frauenstädt, *Blutrache*, pp. 39–44; Van Caenegem, *Geschiedenis van het strafrecht*, pp. 61–69 and 71.

More closely related to our topic are direct peace arrangements, of which there were two main types: truce-like peace and protective peace. Truce-like peace arrangements were wrought immediately after fights or quarrels of any sort had started in a public space, and on preference before they had the chance to escalate. The intention of such truces was to establish a cease-violence that would hold until those people directly involved were formally reconciled. There were many local and regional differences as to who took the initiative, when the truce was valid, how 'voluntary' it could be, and what sanction was awaiting those who refused to make peace. Jan Matthijssen informs us that the town of Brielle (like many other towns in the Low Countries) had appointed special police officials called *vreders* or *vredemakers* ('peace-makers') — elsewhere also known as *paysierders* — with the task of pacifying any unrest in the streets. If they were in time to intervene when the fight was still going on, they made a truce on the spot, which was confirmed by handshakes between the troublemakers (hence: *handvrede*, 'hand peace'). Subsequently the *vreders* had the arrangement registered before the aldermen's bench. In that case no court sentence was necessary. Should all or part of the wrongdoers already have left the scene of the fight, or even fled the town, then a truce was laid down in a court sentence, which was subsequently served upon those whom it concerned. [27]

From other sources we know that in places where no peace-makers had been appointed, that is to say as a rule in villages, but in some towns as well, the initiative to establish a truce lay with those involved themselves or with any bystander of trustworthy reputation. Any of those could demand peace and then report to the local magistrate who would establish the truce in a court sentence. We also know of several cases where the local bailiff was immediately fetched to intervene after a row had broken loose, which could mean he literally had to jump between people who were in the heat of serious fighting. The bailiff of the village of Berkel who did so in 1397 received some ugly blows and was threatened with a knife by two of the hoodlums.[28]

As far as I can see, all truce-like peace arrangements, no matter how insignificant the original discord had been, always extended to the families of all persons directly involved. This was by definition the case for the second type of arranged peace: the protective peace. In many towns of Holland this type of peace came automatically into being when a fight had already ended in a case of vengeance, that is to say, in killing or grave injury. However, it was *not* designed for those directly involved in the violent act but for innocent family members who had had nothing to do with it. The triple aim was to protect the latter from acts of revenge, to withhold the victim's

[27] For a detailed description of the procedure in Brielle, see *Rechtsboek van Den Briel*, pp. 214–16.

[28] ARA, AGH 1916, fol. 3^{v}. Cf. ARA, AGH 1883, fol. 10^{r} (village of Alphen) and, from a later date, *Het register van criminele sententiën uitgesproken door het gerecht van Haarlem*, ed. by B. M. J. Speet (Haarlem: HWU, 1989), no. 66 (June 1440, town of Haarlem). In Haarlem, the aldermen and the sworn *homannen* (a sort of burgomasters) were, like the *vredemakers*, authorized to enforce peace. Ibid., nos 114, 122, and 277.

kin from taking revenge, and to pave the way for a formal reconciliation. The terms of these protective peace arrangements could vary from several days to several weeks. It would last until 1446 when Duke Philip of Burgundy extended this 'safety term' to a period of six weeks for all his possessions in the Low Countries, including the County of Holland.[29]

The bailiffs' accounts prove that the 'refusal of [a] peace' (*vredeweigering*) was treated as a criminal offence, but only punished with a money fine.[30] However, any breach of a peace or *vredebraak*, whether from the first type or the second, and wherever it took place, inside the country or outside, was always treated as an extremely heinous crime that could not be reconciled and was threatened with the death penalty plus the shameful exposure of the dead body 'on the wheel', as well as the forfeiture of all property.[31] The logic behind this will be clear: conscious *vredebraak* could be constructed as a wilful but strictly illegal act of revenge.

In the judicial consideration of *vredebraak* two tendencies came together. On the one hand, the crime of *vredebraak* itself developed into an aggravating circumstance at the trial of violent crimes, and in particular cases of vengeance. Private plaintiffs sometimes made a sport of raising as many aggravations as possible, and breaches of all kinds of peace arrangements always ranked high among them. In 1396 a certain Arend Sluusmans from Oudewater, for example, launched a barrage-like accusation against Lam[bert] Dirks son Barnier, who would have attacked him a) within the town of Oudewater (a place protected by town peace), b) with three accomplices (he was a coward), c) in a church (a holy place and an asylum), d) where they had waited for him (premeditation), and e) stabbed him from behind (treachery), f) with weapons they were forbidden to wear (unlawful), but above all the attack was g) carried out over and against a 'total peace' that had been settled between Arend's and his

[29] In 1455 Philip the Good had attempted to forbid outright the involvement in vengeance cases of relatives who had had nothing to do with it: Frauenstädt, Blutrache, 12. The six-week term probably goes back to the forty days truce, prescribed in a legal *établissement* by the French king Philip III, to give 'the implicated kinsmen who had not been present at the actual misdeed' ample opportunity 'to decide whether to fight or buy peace': Alan Harding, *Medieval Law and the Foundations of the State* (Oxford: Oxford University Press, 2002), p. 198.

[30] Examples: ARA, AGH 1874, fol. 3^{r}; AGH 277, fol. 7^{r} (in which a man from Beverwijk who had refused a peace pleaded illness); AGH 1906, fol. 3^{v}; AGH 1913, fol. 6^{r}. The number of fines for 'breaches of a peace' (*vredebraak*) is many times higher.

[31] The same applied a fortiori to formal reconciliations or *zoenen* (see below) that were quite commonly called 'peace' (*vrede*) as well — which makes it difficult to distinguish between various types of 'breaches of the peace' if no further information is available. For an example of forfeiture of life and property after a breach of a simple 'hand peace' by two brothers, see ARA, AGH 1883, fol. 9^{r}. For an example of a breach of the peace outside the country, see Van Riemsdijk, 'Zevendeel', p. 399, regarding a man who was fined in the village of Wijk optie Zee because he had killed a man in England in defiance of a peace 'that he had given in Wijk with his own hand'. For the count's presumed right to prosecute perpetrators of crimes done in Holland outside Holland, see *Rechtsboek van Den Briel*, p. 185.

attackers' families.[32] Arend's apparent intention was to present a simple homicide, which should be treated as a case of vengeance, as a doubly hideous, irreconcilable crime (*vredebraak* and murder).

On the other hand, precisely because truce-like peace arrangements of all sorts included complete families it was seen as unfair to treat every *vredebraak* with the same harshness; from that point of view high courts of justice trying breaches of the peace were receptive to several sorts of mitigating circumstances. Some of them were of a general nature, that is to say, not exclusively related to the crime of *vredebraak*, such as self-defence and accident, but two others did indeed have this exclusive link. First, there was the degree of kinship between the victim of the violation of the peace and either the perpetrator or the victim of the original conflict that had been at the basis of the peace in question. The more distantly the two sides were related, the lighter the punishment would be.[33] The second came up when someone who had violated a peace could not reasonably have had knowledge of its existence. In that case he or she had broken the peace 'unknowingly' (*onwetende*) or 'innocently', as they said, and punishment would be lighter. If need be, bailiffs were prepared to investigate an appeal to ignorance seriously. Around 1390 Floris van Alphen, bailiff of Noordwijk and Beverwijk, even took the unusual trouble of hearing witnesses in the village of Westzaan, in order to establish whether one of the villagers could have known of a peace in a family row during which he had kicked his uncle's beehives into a ditch.[34] In the countryside of the district of Rijnland and Woerden the tricky dilemma of knowing or not knowing was solved by making a distinction between a peace that had been publicly announced within a village precinct and therefore 'stood public' (*stont openbaer*), and a peace contracted outside the village precinct; only breaches of the latter could ever be recognized as *onwetende*.[35]

The Trial of Vengeance Cases: Clagheding and Zoending

If each and every row or quarrel that occurred in a public space had to be officially pacified with a truce, and if one of the aims of this truce was formally to reconcile the parties concerned — both those directly involved and their families — this did

[32] *RGH*, no. 362.

[33] This has been positively established by one of my students, Adriaan Blankevoort, in defiance of my own older opinion that made the degree of aggravation dependent on the circle of relatives that were involved in the peace or reconciliation that was violated. A. Blankevoort, 'Middeleeuwse toestanden in de rechtspraak: Onderzoek naar de betrokkenheid van verwanten bij vetevoering in de late Middeleeuwen' (unpublished master's thesis, University of Leiden, 1999), pp. 24–27, contra Hoppenbrouwers, 'Maagschap', pp. 87–88.

[34] ARA, AGH 278 fol. 8; cf. AGH 277, fol. 8. Adriaan Blankevoort kindly shared his notes on this event with me.

[35] ARA, AGH 1882, fol. 6^{v} (Zegwaard anno 1396–97).

not mean that all such reconciliations took the same form. On the contrary, there was a huge difference between the settlement of cases of vengeance on the one hand and minor acts of violence on the other hand. Brawls resulting in mere bumps and bruises were easily reconciled in a simple form of the so-called *vriendzoen* or *minelike zoen* ('friendly reconciliation'), which could be brought about on the very same day as the fight had occurred. It had to be concluded before the local magistrate — often before the bailiff — but no court verdict was necessary.[36] Often a reconciliation of this type took time to take effect. Some of those directly involved may have felt the need to consult as many of their relatives as possible, since the entire kin group would be bound by the reconciliation. It may even have been common or acceptable in many places to postpone the final reconciliation indefinitely, and consider the truce-peace itself as a reconciliation. For that reason, in towns at least, all existing truce-like peace agreements were generally renewed on fixed court session days. However, if the local magistrate wanted a truce between unwilling parties to be quickly converted into a formal reconciliation, customary law would allow them to compel those directly involved to so-called *inliggen*, that is to say, to take up residence in a prison house or an inn and stay there at their own expense until they were prepared to reconcile.

But in my opinion nothing of this happened when a case of vengeance had occurred. Then, a completely divergent judicial mechanism was put into operation, which is not very transparent because at various moments there were various options. Our sources refer to two distinctive trials: one the *clagheding* ('trial of accusation'),[37] the other the *zoending* ('trial of reconciliation'), whereas evidently there was a third way, the *dading* or *compositie* or settlement with the bailiff (judge) outside court. Unfortunately the sources are not particularly precise on the relations between these three 'tracks' — even Jan Matthijssen fails us on this point. So, the question lingers, whether the tracks crossed at certain points, with the possibility of switching, or even had to be followed one after the other, or was it more of an either/or scenario? Legal historians of an older generation, such as Rudolf His for the German

[36] For example ARA, AGH 1862, fol. 3^{r}: 'Karin Arend Paepken for one injury done to Dirk Louwers son, that he sustained when he fell from Karin's wagon; which they reconciled between themselves in a *vriendzoen*.' Another case: AGH 1862, fol. 5^{r}. The same account records a *vriendzoen* that had been contracted after a non-accidental homicide. In that case the (two) perpetrators evidently managed to stay on friendly terms with their victim's kin, and to prevent that they had to 'spend time in jail' (i.e. awaiting their trial). ARA, AGH 1862, fol. 5^{v}. See also Peter Hoppenbrouwers, *Een middeleeuwse samenleving: Het Land van Heusden, ca. 1360–ca. 1515*, 2 vols (Groningen: Nederlands Agronomisch-Historisch Instituut; Wageningen: Afdeling Agrarische Geschiedenis, 1992), p. 202, for proof that a formal reconciliation could be made on the very day of the incident that was its immediate cause. Cf. Van Caenegem, *Geschiedenis van het strafrecht*, p. 305.

[37] In the following I mean with *clagheding* a criminal trial of accusation in which the charge was a case of vengeance; the accusatory procedure was also in use in other judicial proceedings.

Empire, and Raoul Van Caenegem for the County of Flanders, opted for the latter.[38] Van Caenegem, in his extensive study on Flemish criminal law, explained how in Flanders's capital city, Gent, violent crimes (including crimes of vengeance) could be dealt with by three different agencies: the court of the *paysierders* ('peacemakers') who presided over the *zoending* which in Van Caenegem's view was a completely urban institution that operated separately from the count's authority;[39] the ordinary criminal law courts, that all functioned under the count's authority regardless of who gave verdict; or the count's bailiffs, who presided over the criminal courts but had the separate authority to settle cases in a *dading* before they could be brought to trial. Now Van Caenegem is categorical that these three instances worked strictly separately. They did not infringe upon each other's territory.

I think that there was less of a separation between the same three procedures in Holland.[40] One could think of at least one good intrinsic reason why there would have been a strong link between *zoending* and *clagheding*: unlike its early medieval predecessors, the verdict after a trial of accusation in the late fourteenth century did not provide for some material satisfaction on the victim's side. Nor did it, apart from exceptions, formally restore the peace between the perpetrator's and the victim's families.[41] In addition to this intrinsic consideration, there are other, more external arguments. First, only the largest towns, such as Leiden, had specialized courts of *paysierders* or *vreders* anyway. A second argument lies in the meaning of the common Middle Dutch word for the first fixed portion of the compensation money that had to be paid to the victim's kin at the end of a trial of reconciliation: *moetzoen*. This is always explained as the money that had to go to those of the victim's relatives who had taken the trouble (*moeite*), costs, and physical risk to take a homicide case to court and make a formal accusation in a *clagheding*. Finally, *dadingen* cannot be seen apart from the two types of trial we distinguished. This was so for two reasons. One, because as far as I can see *dadingen* in Holland, unlike Flanders, were mostly made *after* a trial had ended, or more precisely, after a sentence had passed but before it was carried out. Two, because in relation to a case of vengeance a *dading* could only be made under the express condition that the victim or the

[38] My reconstruction disagrees in several respects with His, *Strafrecht*, pp. 298–302, 314, and 316–19. For Van Caenegem's view, see his *Geschiedenis van het strafrecht*, pp. 320–23.

[39] Van Caenegem, *Geschiedenis van het strafrecht*, pp. 61–71; also idem, *Geschiedenis van het strafprocesrecht in Vlaanderen van de XI^e tot de XIV^e eeuw* (Brussel: Koninklijke Vlaamse Academie voor Wetenschappen, Letteren en Schone Kunsten van België, 1956), p. 9.

[40] In the Charter of Kennemerland, granted by Empress Margaret of Bavaria in May 1346 the three procedures were briefly referred to as follows: all homicides would be 'tried, reconciled, or settled' (*berecht oft versoent oft met gevoegh*). *Groot charterboek*, II, 710–11. Incompletely quoted in His, *Strafrecht*, p. 296, n. 3.

[41] One exception, known from the Charter of Amstelland of 1388, was when the perpetrator had been immediately executed; by that act both kin groups involved as well as the lord of Holland were thought to be satisfied and reconciled. *Oorkondenboek van Amsterdam*, p. 324.

victim's kin were financially compensated as well. Weighing all the evidence I would say that in *most* trials of vengeance cases in fourteenth-century Holland the *clagheding* and the *zoending* were *successive procedural stages*, and not separate tracks.[42] A *dading* became an option after a trial of accusation, for whatever reason (see below), did not turn into a trial of reconciliation.

A tour of all possible tracks,[43] in which the crucial role of the family of both perpetrators and victims is highlighted, can best start with a description of what was most unlikely to happen. It is the story of a poor sailor from the mainland of Holland who was caught up in a knifing on the northern isle of Texel in 1380–81. After having himself received two serious wounds, he defended himself and stabbed his opponent, a sailor from Brabant, to death. Because there were no relatives of the victim at hand, the bailiff of Texel pressed charges, and because no relatives of the killer showed up to arrange a reconciliation, the unfortunate killer was tried and sentenced to death. To his luck many people on the isle thought this was not fair and they begged the lord of Texel — the Count of Blois — to show mercy. But only after they had brought together enough money for a *dading* was the lord's bailiff prepared to set the man free on Easter day after he had kept him in the isle's gaol for over half a year.[44]

The Texel story tells us that in the trials of vengeance cases two circumstances made all the difference. First, was the killer caught and handed over to the law? Second, was he a local man from a local family? If he was caught and did not have the support of his family, a killer's chances looked bad. Most likely he would end with his head cut off, unless he somehow managed to gather enough money for a *dading*. Even worse than being caught after a killing, was being caught red-handed (*mitter verscher daet*). Then a summary trial and immediate execution would follow, if a trial took place at all.[45] Should a relative of the victim have been present, he could have taken blood vengeance on the spot without running much risk that any legal action would be taken against him.

---

[42] Van Herwaarden assumed too easily that there were no differences between procedures in Flanders and Holland (i.e. in the larger towns). J. van Herwaarden, *Opgelegde bedevaarten: Een studie over de praktijk van opleggen van bedevaarten (met name in de stedelijke rechtspraak) in de Nederlanden gedurende de late middeleeuwen (ca. 1300-ca. 1550)* (Assen: Van Gorcum, 1978), pp. 48–52. I was wrong in following him on this point in 'Maagschap', 81–82. Pols, 'Middeleeuwsche rechtspleging', esp. pp. 215–16, already made a correct reconstruction, but he did not elaborate.

[43] I have found one clear example of a halfway switch from trial of accusation to trial of reconciliation: the *zoensegghen* ('declaration of reconciliation') given by the count on 28 March 1316 in Zeeland in the case of Jan van Westerkerke. One of its last provisions demands that, now that a reconciliation had been formally declared, both sides involved refrain (*vertien*) from furthering with their accusations (*claghe*) and withdraw all demands for any sentence so far brought forward. *Groot charterboek*, II, 171–72.

[44] Van Riemsdijk, 'Zevendeel', p. 426.

[45] For example, Van Riemsdijk, 'Zevendeel', p. 409 (village of Westzaan).

Given such gruesome prospects, the first concern of any one who had killed or injured someone, on purpose or not, was to escape. And in such thrilling circumstances those who had family around stood a far better chance than outsiders who had no place to hide nor any one to help them out. Those who did not succeed in getting away in time, could always try to reach a sanctuary (a church or a church yard), hoping that their pursuers would respect the right of asylum and leave them the opportunity to negotiate a settlement before they were starved into surrender. Our sources show that the asylum was sometimes respected and sometimes not, and it is not always possible to guess why. The same applies to the role of judicial officials, who were sometimes prepared to shield besieged killers from their assailants, but on other occasions laid siege themselves.[46]

What happened next when the perpetrator of a case of vengeance succeeded in escaping and staying out of the hands of the law depended on the sequel at the other 'end of the line': the court procedure that had been put into operation and which started with the formal determination by at least two trustworthy persons, whether a corpse had been 'slain by man's hand' or whether the wounds of an injured person had been inflicted during an act of violence.[47] To that end, in the case of homicide, the deceased's relatives had to bring the dead body into a public space — in Brielle the church yard.[48] Had violent death or a grave injury been established, then the dead's relatives, or if possible the victim himself, were invited to accuse a named perpetrator or else 'drop the charges'.[49] Our sources suggest that the second option was the least taken. It was mainly considered when the killing or injuring had been clearly accidental — or *onnosel* as was said in Middle Dutch, an adjective which connotes both unintended and clumsy. Whether an appeal to *onnoselheit* that had not been witnessed was believed or not probably depended on the reputation, social status, and powers of persuasion of the appellant. An example in the last category offers the case, set in 1424–25, of a certain Albrecht Denen who was believed when

[46] An example of the former: ARA, AGH 1985, fol. 59^{v}; of the latter: ARA, AGH 1881, fol. 5^{v} (the case of Jacop van der Loet, discussed below). Sometimes a fugitive was provided with food by local clergymen when the besiegers intended to hunger him out: Van Riemsdijk, 'Zevendeel', p. 426 (village of Den Burg), in this case to no avail; the fugitive — a man who had killed his wife — was lured away 'with threats and subtleties' and eventually beheaded.

[47] Some examples: Van Riemsdijk, 'Zevendeel', pp. 401, 411, and 412.

[48] Because of the highly formalized character of lawsuits, and the court language used, private parties (accusers and accused) usually had themselves represented by a lawyer or *taelman*, who did all the talking, and was sometimes assisted by a legal expert called a *voorspraak*. For example, Van Riemsdijk, 'Zevendeel', pp. 411, 413. On the *taelman*'s job, see *Rechtsboek van Den Briel*, esp. pp. 179–87. From ibid., p. 203, it appears that the use of a *taelman* was not mandatory.

[49] That is to say, either *te claghen* or else *quite te scelden*. Van Riemsdijk, 'Zevendeel', pp. 402 and 413.

he maintained that he had 'accidentally pushed' a man into the water who had subsequently drowned in his presence.[50]

Far less suspect were cases in which the accidental perpetrator had been a (small) child. The extant accounts and verdicts contain scores of examples of children killed or maimed by playmates with knives, forks, scissors, and clubs. Usually, such cases were not tried but the child-killer was forgiven 'for God's sake', and the relatives of the deceased child did receive some financial compensation from the little perpetrator's parents, if they were not too poor. Incidentally the bailiff demanded small fines as well as a formal price for the restoration of the peace.[51] The same was even done when such accidental killings by children violated an existing truce between their families and those of their peer victims.[52]

When adults got involved in accidental killing or injuring, this was usually settled with a *vriendzoen* (a 'friendly reconciliation', see above). In that case no charges were pressed, and neither a formal trial of accusation nor a formal trial of reconciliation took place. The *vriendzoen* was an arrangement made by two kin groups among themselves, if need be with the assistance of arbiters (*segslude*, *ke[e]rslude*), which aimed at mutual reconciliation as well as financial compensation.[53] To be valid, however, the *vriendzoen* had to be registered by the local magistrate, and the usual fines for a vengeance case had to be paid to the count's bailiff. Whether the difference between a *vriendzoen* and a *zoensegghen* ('decision of reconciliation', see below) after a trial of reconciliation was always that big is difficult to see. What probably mattered most to those involved was that the contents of a *vriendzoen* could be determined in relative harmony, without the case being burdened by a preceding public trial of accusation and its resulting verdict.

Even if the victim's kin had decided to drop the charges, this did not automatically mean that no trial would take place and that now the way was paved for a *vriendzoen*. As it happens, the bailiff had the right to make a public accusation and initiate a trial of accusation — rather than act as a public prosecutor, for he did not present a well-prepared case in its modern sense.[54] There were several possible reasons for a bailiff to substitute for a private accuser. To start with, the victim of a case of vengeance could simply have no relatives alive, or he could be a foreigner, or his relatives could be too poor.[55] We even know of cases in which a victim's family outright refused to press charges. Their motives could be many, ranging from pity

[50] *RGH*, no. 433.

[51] The above was a summary of the following cases: *RGH*, no. 361; ARA, AGH 1863, fol. 1^{v}; AGH 1875, fol. 5^{r}; AGH 1882, fols 3^{r} and 5^{v}; Hoppenbrouwers, *Middeleeuwse samenleving*, p. 209.

[52] For example, ARA, AGH 1883, fol. 9^{r} (village of Oudshoorn, 1397–98).

[53] Examples of the use of arbiters: *RGH*, nos 410 and 419. Arbiters were often noblemen or members of town magistrates.

[54] Examples: Van Riemsdijk, 'Zevendeel', pp. 404, 406, 414, and 418.

[55] ARA, AGH 1995, fol. 4^{r} (foreigner), and *RGH*, no. 323 (poverty), respectively.

for the perpetrator[56] to fear of him or his family. Often we simply do not know.[57] Naturally the bailiff had the right to accuse when one of the count's serfs died, but these had become rare in this period, although I did find a case from as late as 1399–1400 when a serf (*dienstman*) died from the plague and no post mortem had taken place — so the bailiff took this as a suspicious death and an 'accusation trial' was started.[58] Another ground for pressing public charges was when the victim's next of kin was an underage orphan or when the first right of a victim's kin had been precluded by the traditional lapse of one year and one day.[59] In yet other cases the bailiff for one reason or another acted as co-accuser together with the victim's relatives, or outright bought from them the right to accuse.[60] But it also happened the other way round, that the perpetrator's kin bought the dead man's hand (see below) from the bailiff, thus preventing the latter from pressing charges in court.[61]

When a criminal accusation was going to be made in court, this was preceded, in case of a homicide, by a ritual called *wapenrocht* or *wapenruft* ('cry to [take up] weapons'(?)).[62] If the accusers were the victim's relatives, they would carry the physical remains of the victim into the space where the trial would take place. Standing in the middle they would draw swords or daggers and shout the words that the judge would loudly prompt: 'take arms against X [the name of the murderer]!' But immediately after this *wapenrocht* the judge would continue: '*I* shall do justice to the murderer if that is what you want. Until that moment you are not obliged to do anything.'[63] This was a polite way of saying that no private hunting and killing of the slayer was

[56] For example, Van Riemsdijk, 'Zevendeel', p. 438 (town of Medemblik).

[57] For example, ARA, AGH 1877, fol. 1^{v} (village of Wateringen).

[58] Van Riemsdijk, 'Zevendeel', p. 416: 'Ditto from [. . .] Aernt Heynen sons death of which the accusation (*claghe*) by right belonged to my lord, because Aernt was a serf of the count (*een grave dienstman*), and he died from bubonic plague (*van der bule*) and his dead body had remained un-inspected by men.'

[59] For example, Van Riemsdijk, 'Zevendeel', p. 420. According to Jan Matthijssen in Brielle lapse of time led to preclusion of the count's rights as well, 'in accordance with customary law of Flanders and Brabant', but at the same time he admits that there was no general agreement on this point. *Rechtsboek van Den Briel*, p. 182.

[60] Some examples in Van Riemsdijk, 'Zevendeel', pp. 427, 435, and 436–37.

[61] ARA, AGH 1886, fol. 14^{r} (village of Zegwaard).

[62] The *wapenrocht* was not known in Flanders; in any case it is not mentioned in Van Caenegem, *Geschiedenis van het strafrecht* and *Geschiedenis van het strafprocesrecht*. Neither are there any Flemish examples in the multivolume Middle Dutch Dictionary (*Middelnederlandsch Woordenboek*), of which I consulted the CD-ROM version. Interesting on the etymology of 'wapenroep' is Pols, 'Middeleeuwsche rechtspleging', p. 231, who argues that 'wapen-' has nothing to do with 'weapon', but would have been derived from *wee* ('woe'), as in the verb *weeklagen* ('wail').

[63] *Rechtsboek van Den Briel*, pp. 180–81. People from outside, even foreigners, could do a formal *wapenroft*, but they had to have local sureties.

needed for justice to be done. It is also important to notice that the *wapenrocht* was executed before the kinsmen of the victim got the opportunity to pronounce their accusation formally. In the *wapenrocht*, one could say, the private execution of blood vengeance, and all the anger this involved, was consciously ritualized, located within the context of public justice, and controlled by the magistrate.[64] If the bailiff made the accusation ex officio, this fiction was maintained, because *wapenrocht* was done as just described, only this time by the bailiff's men.

The actual accusation had always to be addressed against a named perpetrator — never indicated as a 'suspect'; there was no presumption of innocence on the accusers' part. At this occasion a true corpus delicti had to be produced, that is to say, an injury or a dead body had to be shown. This meant that when the post mortem examination, the *wapenrocht*, and the expression of the formal accusation did not take place on the same day — and that must have been most common — the dead body had in some way to be preserved. In Brielle this was done by putting the entire corpse in a herring barrel and covering it with quick lime; elsewhere, for practical reasons, only a part of the body, most commonly the right hand, was cut from the body, cooked, cast in wax, and provided with seals as a certificate of authenticity.[65] If no corpus delicti was produced, for instance because the deceased's relatives had decided on a hasty burial, the perpetrator could get away with a simple fine.[66]

At these two initial stages of the accusation trial the victim's kin were already intimately involved; the *wapenrocht* was usually conducted by six kinsmen: the two closest relatives of the victim, and one member of each of his or her four quarterings (*vierendelen*). The formal pressing of charges was done by a lawyer or *taalman* (if parties could afford one) on behalf of, and in the presence of, the 'oldest and next of kin', most commonly the father, the eldest son, or the eldest brother of the victim.[67] Pressing charges in a law court was not free of charge. Apart from the expenses for contracting a *taalman*, the accusing party had to pay a substantial fine for their making use of a high court of justice.[68]

---

[64] Frauenstädt, *Blutrache*, p. 38, even called the entire accusation trial 'nothing else but blood revenge, regulated by law' (*rechtlich geordnete Blutrache*). I think this is a gross overstatement.

[65] T. J. van Rensch and G. H. A. Venner, 'Twee dingtalen uit het Overkwartier van Gelre', VMOVR, n.s., 5 (1987), 7–19 (p. 9). Amsterdam may have been the first town in Holland where the custom of cutting of a dead person's hand was seen as contrary to good taste; as early as 1400 the victim's relatives were allowed to bury the entire corpse after the judicial autopsy. At the trial a written statement from the aldermen substituted the physical remains. Pols, 'Middeleeuwsche rechtspleging', pp. 212–13 and 233–35.

[66] A clear case from the village of Hillegom: ARA, AGH 1883, fol. 4^{r}. Cf. Van Riemsdijk, 'Zevendeel', p. 408, where a woman was charged of trying to move the dead body of a murdered man outside the lordship of Westzaan.

[67] Some examples (out of many): Van Riemsdijk, 'Zevendeel', pp. 409, 410, 413, and 418.

[68] For example, ARA, AGH 1903, fol. 8^{r} (payment of £6 for pressing charges); ARA, AGH 1904, fol. 13^{r} (payment of £7); AGH 1906, fol. 2^{v} (payment of £6 13*s*. 4*d*.). In the district of

After the accusation had been formally pronounced there were two possibilities: either the accused appeared or the case went by default. A defendant who had not been apprehended might attend the court voluntarily if he knew that he could plead self-defence.[69] Otherwise he was totally dependent on the means of proof for which the court decided. If, in the court's opinion, there was too much doubt about who had committed the crime, and the accused was a local man held in high esteem, he would usually have got the opportunity to swear to his innocence, as was still common in the trying of minor offences.[70] But normally in criminal cases more rigorous means of proof were required, some of them obsolete, others 'modern'. Far from notional, at least in the (large) district of North Holland, was the old fashioned trial by battle, the 'ultimate means of proof' of Frankish times, that could be put into action both after a challenge by the accused and by court order.[71] The former happened, for instance, in the case of Arend Sluusmans versus Lam Barnier, already mentioned. Immediately after Arend had pronounced his crafty accusation against Lam, the latter launched a counter-accusation in which he bet his life against Arend's leg that Arend was a liar, and a killer at that, because he would have slain Lam's cousin (or nephew), Wouter Ludolfs. Should Arend deny all this, then Lam would challenge Arend to battle.[72] In another case, which took place in 1402, a man named Jan Coppens accused Jacob van der Beets before the Count's High Council of having

---

Kennemerland alone we regularly find the rule that 'the kin may accuse without any injunction or fine (*zonder banne ende boete*), according to the customs of the land': Van Riemsdijk, 'Zevendeel', p. 406. In practice, however, this meant that one had to pay a fee for making use of this right: Van Riemsdijk, 'Zevendeel', pp. 418–19. The use of the term *banne* in this context is interesting, because it suggests that the first and highest right to accuse belonged to the prince, not to the victim's kin. Cf. *Rechtsboek van Den Briel*, p. 180, for the *dingtaal* of Brielle on this point.

[69] For example, Van Riemsdijk, 'Zevendeel', p. 419. Special lenience was shown with respect to physical violence used by what we would now call police officers on duty. Even the question whether police violence had been proportional to the situation could be submitted to a verdict of a criminal law court. *RGH*, no. 368.

[70] For example, *RGH*, no. 339 (29 November 1389).

[71] On trial by battle in late medieval Holland and Zeeland, see Fruin, 'Over waarheid', pp. 324–26 and 337–38, where Fruin argues that judicial battle survived longest in the district of North Holland — the core area of the County. For early medieval legal practice see Beyerle, *Entwicklungsproblem*, pp. 217–22, who pointed out that some German legal historians in his time tended to interpret judicial battle as 'a feud transferred to a court of justice'. On late medieval Flanders, see Van Caenegem, *Geschiedenis van het strafprocesrecht*, pp. 139–47, who states that trial by battle was strictly forbidden in all Flemish towns from the early thirteenth century onwards; rural law codes of the fourteenth century maintained provisions on the possibility of judicial battle, but even in the countryside nobody could be forced to accept this means of proof.

[72] See note 32 above.

beaten to death his mother. Jacob immediately challenged Jan to battle. At that moment, the kin of Jan and Jacob had to promise solemnly and on their lives and goods that they would bring their man to the arena, 'whether he was alive, sick or death' [*sic*]. There Jan and Jacob should engage in battle duly armoured and armed with common swords and daggers.[73] More often than not parties who in the heat of an argument had thrown down the gauntlet will have wanted to withdraw — without loss of honour, of course — when the day of grizzly truth approached. This certainly was possible but because challenge to battle was a serious judicial procedure, withdrawal cost a bit. Two villagers of Waddinxveen, for example, had to pay £84 for being discharged of their promise to fight each other in the lists.[74]

Both on account of this right of accused persons to challenge their accusers to battle and because the count's bailiffs began to act more and more as public accusers in criminal trials, the bailiffs had to employ professional champions or *kempen* themselves.[75] When these fighters came into action — or threatened to — they did so by 'throwing' a glove into the face of the defendants, who then had the choice between taking the glove and putting up a fight or refusing to do so and losing their case.[76] For that reason, private persons who were challenged to battle would also have hired professional champions if they could afford the expense. It goes without saying that professional champions were fierce and ruthless men. When Jacop van der Loet, champion of the bailiff of Rijnland, had killed Ysbrant Willems of the village of Alphen in defiance of a peace, and subsequently had barricaded himself in the village church yard, it took the bailiff five whole days and the effort of nineteen armed men to get Jacop from the yard and bring him on a cart to The Hague, where he was decapitated.[77] However, according to Fruin much of the judicial battle business at the time would have been show and symbol, and its intention was rather to frighten parties that got themselves engaged — and by doing so to prove them wrong — not to let them get seriously injured or killed.[78] Besides, from 1346 onwards anyone challenged by the bailiffs' champions because of a homicide or a

[73] *RGH*, no. 383.

[74] ARA, AGH 1862, fol. 4^{v}.

[75] That champions were deployed as part of a public prosecution procedure is well proved by ARA, AGH 1863, fol. 9^{v}: After the killing of a certain Dirk Reynkens in the village of Sluipwijk, the count wanted his bailiff of Rijnland to prosecute himself; therefore 'all kinds of champions were needed', because 'many had been involved in the killing'. The 'all kinds of champions' probably referred to the basic distinction that was made between champions of noble birth to fight noblemen (so-called *welgeboren kempen*) and champions of non-noble birth to fight non-noble defendants (so-called *huislieden kempen*).

[76] For example, ARA, AGH 1862, fol. 9, for a case where the glove was taken up.

[77] *Rekeningen van de grafelijkheid van Holland*, pp. 69 and 74 (= ARA, AGH 1881, fols 5^{v} and 9^{r}).

[78] Fruin, 'Over waarheid', pp. 325–26.

breach of a peace had the right to ask for a *waarheid* or judicial inquest as an alternative to battle.[79]

Just like trial by battle, a *waarheid* (*veritas* in Latin) could be demanded by both the accused and the judicial authorities. However, in the trying of criminal cases the *waarheid* was always provided and manned either by the count's high courts of justice, hence its specified designation *sgraven waarheid* ('the count's *waarheid*'), or by aldermen in those towns that had acquired rights of high jurisdiction, hence *schepen waarheid* ('the aldermen's *waarheid*'), alternatively called *schepen kenning/kennisse*, or *scepenen proeve*.[80] Its main goal was to establish the facts — or at least clarify the circumstances — surrounding a criminal act or serious wrongdoing (like a riot) by hearing witnesses on the spot. The *waarheid* was held outside the court; normally its sessions were half-closed, as appears from a detailed description from the district of Zuidholland from 1445: the *waarheid* committee, consisting of the bailiff, his secretary, a judge, and six men of noble birth, had to hold its session within an enclosed space, for example a church building, but with the door open; the accused with his relatives had the right to take position at the door post and keep away anyone not summoned as witnesses. In this way they knew who was giving evidence, and maybe also what was said.[81] The outcome of a *waarheid*, passed in a sealed verdict to the court, was not absolutely directive for the verdict of the court itself. The best thing a *waarheid* could bring about was the establishment of 'a strong suspicion of guilt'.[82]

There is no doubt that every now and then a *waarheid*, as just described, was used in the trial of cases of vengeance, like in 1379–80 after a man called Willem Stickel had been killed in the village of Westzaan. The local *waerheid* that followed was presided over by the bailiff of the Count of Blois — the lord of the area — while some of the Count's vassals acted as assessors.[83] In 1361 the siege of the church of Rotterdam, where a man accused of homicide had sought refuge, ended in a *waarheid* presided over by the bailiff of Delfland and Schieland, Lord Oetzier van Kralingen.[84]

---

[79] *Groot charterboek*, II, 712–13.

[80] Like, for instance, in Brielle, where the *schepenkennissen* were provided by 'aldermen, *jurati*, and reliable men' (*scepenen*, *ghezworen ende goede luden*): *Rechtsboek van Den Briel*, p. 187.

[81] Fruin, 'Over waarheid', pp. 339–40. The source text is printed in *De oudste rechten der stad Dordrecht en van het baljuwschap van Zuidholland*, ed. by J. A. Fruin, 2 vols ('s-Gravenhage, 1882), II, 300–03. There also existed a completely closed or 'secret' *waarheid* (*stille* or *heimelike waarheid*), but since 1346 its use was limited to the trial of extremely hideous crimes, such as murder. See esp. *Groot charterboek*, II, 710–11.

[82] Fruin, 'Over waarheid', pp. 330–31.

[83] Van Riemsdijk, 'Zevendeel', pp. 403–04. In Middelburg (Zeeland) the keeping of a *waerheid* would *always* have followed when the overlord (the Count of Holland) took over the right of accusing from a private party. In Holland this is less clear.

[84] ARA, AGH 1906, fol. 9^{v}.

The normal penalty for someone found guilty of homicide was death. In reality most convicted killers would be perpetually banished (*ballinck*/*uutlaghe tlants gelegd*). In addition, their house would be burnt to the ground and their goods declared distraint.[85] Only in Amstelland and Gooiland did the Charter of 1388 introduce a milder regime: a man found guilty of homicide was fined £100 *and* he had to commit himself to a reconciliation with the victim's kin in court (i.e. in a consecutive trial of reconciliation); only if these penalty terms were not met would perpetual banishment follow. A verdict of guilty for inflicting grave injury (*leemte*) had the same conditions and sanction, but the fine was substantially lower: £20.[86]

The Amstelland provisions of 1388 lend important support to my view that in the majority of vengeance cases there was first a trial of accusation, aimed at the provisional punishment of the perpetrator, followed by a trial of reconciliation, aimed both at the compensation of the victim's side and the definite restoration of the peace between the two kin groups involved. Outside Amstelland it apparently did not matter that much whether a perpetrator, of his own free will or not, had appeared in court as a defendant or had made an escape. When convicted, the consequences were about the same.[87] Had he escaped, the accuser would plainly have won the case,[88] and the perpetrator's voluntary exile would become a judicial one. If the perpetrator were to lose the case while standing trial, banishment would be his likely fate. The court verdict would declare him an outlaw while using perhaps the most spectacular legal formula known from the *dingtalen*.[89] It was immediately followed by another verdict, which granted the kin of a homicide victim, up to and including the third canonical degree — and only them[90] — the right to kill the killer for nothing more than 'four pennies and the [avenger's] weapon' should the convicted exile turn up in

[85] See the standard description in *Rechtsboek van Den Briel*, pp. 187–88. In many town laws it was laid down that seizure of goods could never comprise more than half of someone's possessions. This was to protect a perpetrator's wife and children, but it was also in accordance with the total community of goods prevalent in Dutch marriage customs.

[86] *Oorkondenboek van Amsterdam*, pp. 323–28, provisions [5] and [9].

[87] On the possible relationship between banishment by court verdict after a trial and banishment by default after non-appearance, see already Pols, 'Middeleeuwsche rechtspleging', p. 214.

[88] See, for example, *Rechtsboek van Den Briel*, p. 189.

[89] Outright poetic is the famous Icelandic-Norwegian variant in the so-called Trygþir formula (the one with the skiing Finn), printed (with a German translation) by, among others, Beyerle, *Entwicklungsproblem*, pp. [152–[153. The legal customs of the Münster area recognized one spot where a fugitive killer should remain untouched: 'on a piece of land, of which both ends end in a crossroads, and sitting under two harrows, placed diagonally to each other, and for the time it will take him to eat a white loaf of one penny' (cited by His, *Strafrecht*, p. 284).

[90] The *dingtaal* of Dordrecht alone says: 'a third-degree relative or one half degree beyond' (*een aftersusterkijnt of een half lit daerbuten*). *Oudste rechten der stad Dordrecht*, I, 369. It is not very clear to me how 'half degrees' of kinship should be reckoned.

the country.[91] Some *dingtalen* are explicit that the blood revenge should be taken by the relatives in person; it was strictly forbidden to hire a paid killer to do the dirty work.[92] This was the only occasion when the actual taking of blood vengeance was approved by the law — unless we would include the 'legal' slaying of a killer who was caught red-handed (see above).

For the perpetrator of a case of vengeance the positive aspect of the banishment sentence was that 'perpetual exile' was not meant to be 'perpetual'. The banishment was no more than a means of putting pressure on the perpetrator and his kin to submit as quickly as possible to a judicial reconciliation. Such a judicial reconciliation had to be brought about in the *zoending* ('reconciliation trial'), leading to a court decision called a *zoensegghen* ('declaration of reconciliation').[93] Unlike the *clagheding* ('trial of accusation') the *zoending* was not a real trial during which someone's guilt or innocence was determined in a court of law. Instead it resembled an arbitration tribunal, in which the decision was made and pronounced by, or on behalf of, the court's president,[94] not as in common medieval lawsuits by a qualified group of 'judgement-finders', who gave verdict on the court president's, that is, the bailiff's, request.

Zoendingen could be initiated both by the kin groups involved — but how this was done remains unclear — and by the judicial authorities themselves;[95] furthermore they could either include or exclude the perpetrator. In any case, at this stage it was outright forbidden, to a victim's kin group as well as to public authorities, to make any reconciliation with the perpetrator and his relatives without involving the

[91] For a description of the procedure in Voorne and Brielle, see *Rechtsboek van Den Briel*, pp. 187–89. But exactly the same formula is known from various *dingtalen* from all over the present-day Netherlands. Corien Glaudemans, 'De hand van de dode: Een onderzoek naar doodslag, eigenrichting, vete en verzoening in laat-middeleeuws Den Haag', *Jaarboek Geschiedkundige Vereniging Die Haghe* (2000), 10–81 (p. 20 and n. 28) mentions several cases from The Hague which prove that this custom was still being practised in the fifteenth century.

[92] Seerp Gratama, 'Een dingtaal van Naarden- en Gooiland', VMOVR, 6.1 (1910), 95–105 (p. 105).

[93] It is difficult to say whether in the legal-technical sense the *zoensegghen* was rather a verdict or an arbitration decision. Jan Matthijssen suggests that only after the *zoensegghen* had been accomplished and the 'trial of reconciliation' closed, the high court of justice that tried cases of vengeance passed a concluding verdict or *zoenvonnis* ('verdict of reconciliation'), in which the definite restoration of the peace was declared. But the same final *zoenvonnis* also concluded trials of other cases in which physical violence had been used, for instance common fights. *Rechtsboek van Den Briel*, p. 218.

[94] This is strongly suggested by Jan Matthijssen: *Rechtsboek van Den Briel*, p. 221. Most of what we know about the *zoending* in this period we know from the thirty or so *zoensegghens* from the Count's High Council. These indicate that the count himself, as the Council's president, 'declared' or did the *segghen*.

[95] According to His, *Strafrecht*, pp. 311–13, forced reconciliation (*zoendwang*) and reconciliation ex officio were excluded for homicide cases. The second half of this statement certainly does not hold for late medieval Holland.

other.[96] Such 'secret reconciliations' (*heimelike zoenen* or *halesoenen*), after a trial of accusation, should not be confused with the already mentioned, legal *vriend-zoenen* ('amiable truces') that substituted the accusation procedure.

Our sources give the impression that normally perpetrators appeared in the *zoending*, which means that they were included in the reconciliation arrangement, but it is easy to think of reasons why they were left out. Most obvious are those situations in which they had already been executed,[97] or because they preferred to stay away in exile, or they just did not have enough money to pay for their *landwinning* (see below).[98] It also occurred that either one of the kin groups involved in the reconciliation, or both, did not want the perpetrator to be part of it. In the case of Albrecht Meynaerts son, in 1431–32, the decision of the kin group changed. After Albrecht had killed a man in the town of Enkhuizen, the deceased's relatives at first did not want to reconcile with him, and Albrecht was condemned to death. However, then the victim's kin thought again, and Albrecht was pardoned.[99] In Leiden in 1367–68 a man who seriously injured a woman was first thrown out of the reconciliation when the *zoending* was half done, but then reinstated.[100] And in another Leiden case, it happened the other way round that a killer at first did not want to 'reconcile with his enemies' (being the kin of his victim), whereas his own relatives had already paid half the compensation money.[101] So, evidently, there was some legal room for relatives of victims to be left out of *zoendingen* with the purpose of keeping open their option to take blood vengeance without being in direct danger of loosing life and goods for breaking a reconciliation.[102] The really interesting point here is that apparently formal reconciliations between kin groups were brought about to the exclusion of those most directly involved. What we do not know very well is how this affected the terms of the *zoensegghen* — for instance the financial compensation part.[103]

---

[96] Most explicitly in the *dingtaal* of Naarden and Gooiland: Gratama, 'Dingtaal', p. 105. An example of a fine for *heimelike zoen*: ARA, AGH 1994, fol. 1^{v} (village of Nieuwveen). His, *Strafrecht*, pp. 315–16, and Van Caenegem, *Geschiedenis van het strafrecht*, p. 305, are not entirely correct on this point.

[97] Examples are *RGH*, nos 359 and 380. In Amstelland and Gooiland the kin groups of perpetrator and victim were considered as reconciled after the perpetrator had been executed (see note 41 above).

[98] Van Riemsdijk, 'Zevendeel', p. 359.

[99] *RGH*, no. 437.

[100] ARA, AGH 1862, fol. 4^{r}.

[101] ARA, AGH 1864, fol. 4^{r}.

[102] For example, *RGH*, no. 340. The implication was that those who stayed out could not expect any assistance or help in taking revenge anymore of relatives who were legally reconciled.

[103] According to provision [6] of the Charter of Amstelland of 1388 no compensation money had to be paid in such cases. *Oorkondenboek van Amsterdam*, p. 324. Another example (from the isle of Voorne): *RGH*, no. 348.

As to their substance, *zoensegghens* in cases of homicide distinguished between amends to be made by the perpetrator in person and those to be made by the perpetrator's kin group to the victim's family.[104] The former consisted of three sorts of payments. First and foremost, the perpetrator was obliged to contribute heavily to the so-called *zoengeld* ('reconciliation money') or *maaggeld* ('kin money'), the compensation money that his kin group had to pay to both the count and/or his bailiff and to the victim's family (see below). Secondly, the perpetrator on his own had to pay to the count as lord of the land a double fine, one part being called 'fine' (*boete*), the other part *landwinning* ('[fine for] winning back the country'), a licence to resume living peacefully in the land.[105] Thirdly, the perpetrator was bound to pay a double amend for prayers for the victim's salvation. One part consisted in a specified number of so-called 'soul masses' (*zielmissen*), during which special prayers were held for the soul of the deceased. When the victim and the perpetrator were powerful and wealthy men the buying of soul masses was not enough and a chapel had to be founded for the permanent remembrance of the deceased's soul.[106] The other part was traditionally discharged by having the victim's soul received into the memorial fraternities of the most important abbeys of the land. This fine was called *cloosterwinning*.[107]

In addition to these fines, which, added up, must have drained the financial assets of almost any individual, perpetrators of cases of vengeance could, as part of the *zoensegghen*, get a physical punishment as well. Most often around 1400 it took the form of a so-called *strafbedevaart* or 'penalty pilgrimage', which forced convicts to leave the country at their own expense for a considerable time, because the destinations could be as far as Jerusalem, Cyprus, Rome, Santiago, or Rocamadour.[108] If

[104] As a matter of fact, all these elements are well known from other parts of the German Empire, as well as from Flanders. Verdicts of reconciliation in cases of grave injury were usually more simple affairs.

[105] For a rare authentic and contemporary copy of a proper declaration of *landwinning*, dated 30 September 1393, see *RGH*, no. 351. The obligation of paying *landwinning* was not dependent on the question of whether or not the perpetrator had fled the county and stayed abroad. Perpetrators who had, willingly or not, remained in the county had to pay *landwinning* as well. Clear proof is offered by *RGH*, no. 338.

[106] For example, with regard to the killing of a rich burgher of Alkmaar by members of the noble family of Egmond: *RGH*, no. 363.

[107] For the County of Holland the standard formula was '*cloosterwinning* between Mase (the Meuse river) and Zipe (the estuary at the northern tip of the mainland of Holland)'. This referred to the five monastic convents in Holland that around 1400 had abbey status: Egmond, Rijnsburg, Loosduinen, Koningsveld, and Leeuwenhorst. *Rechtsboek van Den Briel*, p. 225. In the Land van Woerden alone, which until 1287 had belonged to the secular territory of the bishop of Utrecht, *cloosterwinning* was done to the abbeys lying 'between the Nuede (a waterway to the west of Utrecht town) and Bodegraven (the westernmost town of the Land van Woerden)'. See *RGH*, no. 359.

[108] Examples: *RGH*, nos 322, 377, and 378. On penalty pilgrimages in general, see Van Herwaarden, *Opgelegde bedevaarten.*

such penal pilgrimages can be regarded as temporary exiles to specific destinations, it also happened that as part of a conciliatory verdict perpetrators were outright exiled (or forced to stay where they were if they had fled the country), or even exiled in combination with a penal pilgrimage — all conditionally, that is to say, for an agreed period of time and until they had satisfied other demands.[109]

In addition to the standard requirements to be fulfilled by the perpetrator alone, full reconciliation sentences detail the reparations demanded from his family. These had three elements: the payment of *zoengeld*; an *amende honorable* called *voetval* in Middle Dutch (literally 'falling at someone's feet'); and the abjuration of all further enmity by a solemn oath called the *oirvede* (a contraction of 'over-eed'). In all three procedures the perpetrator's kin were involved in a compelling way. The *voetval* usually had to be done in a public space (mostly a church) by a large number of men who had to be bareheaded and barefoot, and dressed only in linen undergarments. For doing the *oirvede* the perpetrator's kin had to appoint a specified number of family members beforehand; the oath itself had to be sworn on the third and final day of payment of the *zoengeld*.[110]

From the point of view of the involvement of kin the payment of the *zoengeld* is the most interesting element — as well as possibly the most ancient, because without any doubt *zoengeld* was the direct successor to the early medieval *wergeld*.[111] It should be remembered, however, that the larger part of the *zoengeld* was paid by the perpetrator alone, not by his family, whereas the count, rather than the victim's kin, was the principal recipient.[112] Smaller amounts went to the count's bailiff, to other local officials — in particular local bailiffs or *schouten* — or local lords (*ambachtsheren*), and sometimes also to the count's household (*ghesinde*), all as compensation for their work and efforts in a case. Only the rest of the *zoengeld* — usually something between a third and just over half of the total amount — went to the victim's family or, in case of injury not leading to death, to the victim and his family. From a

[109] Examples: Van Riemsdijk, 'Zevendeel', p. 408; *RGH*, nos 363, 370, and 408. It is clear that exiles still had to pay their (large) part in a *maaggeld*, at least if they hoped to return to Holland. See Van Riemsdijk, 'Zevendeel', p. 408.

[110] A formula example from Middelburg (Zeeland): M. S. Pols, 'Dingtalen van Middelburg', VMOVR, 1.5 (1884), 316–26 (p. 317).

[111] The early medieval name of *wergeld* or *mangeld* ('man money') was maintained in many regions, for instance in Friesland, as well as in Kennemerland and Westfriesland, the northern part of Holland. For Friesland, see D. J. Henstra, *The Evolution of the Money Standard in Medieval Frisia: A Treatise on the History of the Systems of Money of Account in the Former Frisia (c.600–c.1500)* (Groningen: Grafisch Centrum RUG, 2000), pp. 263–75. For an example from northern Holland, see Van Riemsdijk, 'Zevendeel', p. 423.

[112] The count's share of the *zoengeld* usually amounted to something between one-third and two-thirds. Maybe the prince's claim originated in the early medieval *fredus*. Cf. Harding, *Medieval Law*, p. 27. In any case, practice in Holland on this point was far from unique, and certainly not 'modern'.

purely financial point of view, therefore, the settlement of cases of vengeance in later medieval Holland weighed far more heavily on the perpetrator's kin than it benefited to the victim's kin. This must have devalued the *zoengeld*'s contribution to the softening of bad feelings between hostile kin groups.

How the amount of *zoengeld* to be paid was determined is not always clear, but there were important local variations. In the northern districts — Kennemerland, Westfriesland, Waterland — a tariff system functioned that took social estate into account in a sophisticated way.[113] In the old towns of Leiden and Haarlem a procedure was known for paying compensation money 'with closed hand' (*mitten beloken hand*), by which the perpetrator himself ceremoniously promised to put so much money in his hand for deliverance to his victim's kin as God would dictate to his heart.[114] Elsewhere the total amount must have been determined in agreement between those relatives of both sides that acted as representatives of their kin groups in the preparation of the reconciliation trial. The only more or less fixed elements were certain multipliers that were in use to raise all kinds of fines because of aggravating circumstances. For example, a homicide committed during a peace of whatever type or within a space protected by peace had to be repaid fourfold.[115]

On the victim's side, the *zoengeld* was always split up into three portions — sometimes equal portions, sometimes not — called the *voorzoen* ('pre-conciliation') or *moetzoen* (see above), *erfzoen* ('heirs' conciliation'), and *maagzoen* ('kin's conciliation') respectively.[116] The *voorzoen* or *moetzoen* went to the members of the family or other people (maybe friends or acquaintances) 'who had done most work to get the conciliation arranged, and who were most worthy', as a verdict from September 1389 explains.[117] The *erfzoen* went to the direct heirs of the victim, 'either male or female, children or other',[118] and if so desired, special arrangements

[113] There has been ample discussion between R. Fruin and T. van Riemsdijk about whose social estate was taken into account: the perpetrator's or the victim's. See Fruin's response to Van Riemsdijk, 'Zevendeel' in 'Over den aanbreng', and Van Riemsdijk's replication in 'Het vierendelen'. According to the Charter of Waterland of May 1347 the lord of the land would value (*te ghelde setten*) a victim of homicide on the basis of an advice (or verdict?) by the majority of the aldermen of Waterland: *Groot charterboek*, II, 735.

[114] His, *Strafrecht*, pp. 330–31. Van Herwaarden, *Opgelegde bedevaarten*, pp. 322–24.

[115] Everywhere the use of violence inside the safety of a house was taken very seriously. In Kennemerland, for instance, one had to pay a fourfold fine when crime of violence was committed *bynnen huyse ende hove* ('inside the house and its yard') as opposed to *op enen vrien velde* ('in the open field'). Van Riemsdijk, 'Zevendeel', pp. 400–01; cf. pp. 434 and 435.

[116] The *moetzoen* is not to be confused with the *montzoen* ('mouth reconciliation'), which was destined in Zeeland for those of the victim's relatives who would seal the reconciliation with the kiss of peace. The *montzoen* was unknown in Holland; see also His, *Strafrecht*, pp. 328–29.

[117] *RGH*, no. 338.

[118] *Rechtsboek van Den Briel*, p. 223.

were made for bastard children.[119] Sometimes, the *zoensegghen* specified how the *erfzoen* portion had to be subdivided between the separate heirs. For example, of the total *erfzoen* of £500 to be paid in 1389 for the killing of Klaas van Thorenburch, a nobleman from Kennemerland, his eldest son received £300, his youngest £200. The two brothers made each other heir to these amounts; only when both would have been dead without leaving direct heirs would the *erfzoen* go to their sisters.[120]

The third portion or *maagzoen* went to the full kin group in accordance with canon law, whereby the exact amount of *maagzoen* that each relative received was determined by his or her degree of relationship. In order to arrange the distribution of the *maagzoen* (as well as to carry out other tasks assigned to the victim's wider kin in judicial dealings with vengeance cases) the kin group was divided in its four *vierendelen*, but going no further down than the victim's own generation.[121] This could still amount to a large number of individuals who would then only qualify for a tiny portion of *maagzoen*. For this reason it was not uncommon for the wider kin to waive their right, and leave the entire *maagzoen*, as an extra compensation, to the victim's direct heirs (children).[122]

Paying compensation money or *maaggeld* (or *zoengeld*) was in a sense the inverse of receiving *maagzoen*. In other words, the amount to be paid by the perpetrator's kin was divided in four equal portions assigned to the four *vierendelen*.[123] In the villages — not the towns — of the northern regions of Kennemerland and West-friesland alone customary law again differed.[124] The obligation to pay compensation money for a case of vengeance was imposed on six named members of the perpetrator's kin — as well as on the perpetrator himself. This was called the 'imposition of

[119] For example, *RGH*, no. 338.

[120] *RGH*, no. 340 (p. 39).

[121] The latter to avoid involving non-adult children. So, a nephew of the victim did not share in the *maagzoen*, but a cousin did, although according to canon law both would be related to the victim in the second degree. See Hoppenbrouwers, 'Maagschap', pp. 83–87.

[122] For example, *RGH*, no. 410.

[123] The mathematics of the further internal division of the portions assigned to each *vierendeel* are slightly more complicated than His, following a misinterpretation of Jan Matthijssen by Brunner on this point, suggests (His, *Strafrecht*, p. 655). Obviously, close relatives shared two or even all four family quarters with the victim or perpetrator, but as far as I can see, they received *maagzoen* or paid *maaggeld* according to their degree of kinship in only one *vierendeel* (e.g. *RGH*, no. 325). For the special position of a victim's direct heirs in the receiving of compensation money, see above.

[124] On the backgrounds of these regional differences, see Peter Hoppenbrouwers, 'Rebels with a Cause: The Peasant Movements of Northern Holland in the Later Middle Ages', in *Showing Status: Representation of Social Positions in the Late Middle Ages*, ed. by Wim Blockmans and Antheun Janse (Turnhout: Brepols, 1999), pp. 445–82. It should be noted, however, that on this particular point the towns of Kennemerland and Westfriesland did follow the common customs of Holland. His, *Strafrecht*, pp. 656–57 and 662.

seven parts' (*zevendeel leggen*). But on the victim's side the *maagzoen* was distributed among the *vierendelen*, just like in the rest of Holland.[125] So here the curious situation existed that the payment of compensation money by the perpetrator's kin was organized differently from the distribution of *maagzoen* among the victim's kin.

The *maaggeld* was usually paid in three terms. After the second term the reconciliation was regarded as having taken effect,[126] so any violence committed after this moment would have been regarded as a breach of reconciliation (*zoenbraak*) — in fact a special form of a breach of the peace, and likewise threatened with capital punishment when the breach involved a killing or the infliction of grave injury; minor infringements (such as calling names or beating someone up) were punished with a heavy fine.[127]

The perpetrator's kin could not treat their joint financial liability lightly: non-payment of *maaggeld* was threatened with loss of life, or, in Jan Matthijssen's words, 'overdue contribution to a *maaggeld* goes before any other debt, because it saves the debtor's neck' (*wantet halslossinghe is*).[128] To make sure that relatives would contribute, they had to give security right at the beginning of the *zoending*, or else payment could be enforced by court order; recalcitrants were prosecuted or exiled.[129] If need be bailiffs assisted those relatives appointed to raise the *maaggeld* among the *vierendelen* of their family in gathering the money, of course against a fee.[130]

But in practice relatives could not always be easily or even legally forced to contribute. One obvious impediment was offered by geographical dispersal of families. The bailiffs' accounts show amazing efforts to get in touch with relatives of either victims or perpetrators living far away, even far outside the county.[131] However, when found they sometimes refused to contribute, arguing that they lived according to a different customary law. In this manner after a homicide on the isle of Texel in 1377 part of the *maaggeld* proved not collectible because some of the killer's relatives lived in Zeeland, where the splitting up of *maaggeld* in *zevendelen* (see above) was unknown.[132] Especially in border areas, such as the Land van Woerden,

[125] Van Riemsdijk, 'Zevendeel'. On one other point there was symmetry on the victim's side: the accusation procedure had to be initiated by seven relatives of the victim. His, *Strafrecht*, p. 660 and n. 2.

[126] Probably this moment (the second term of payment) was therefore called the '*halve zoen*' (half reconciliation), a term which regularly appears in the bailiffs' accounts.

[127] His, *Strafrecht*, pp. 337–41.

[128] *Rechtsboek van Den Briel*, p. 222.

[129] For an order to collect *maaggeld* emitted by the count on 25 March 1395, see Van Riemsdijk, 'Zevendeel', p. 441. Examples of prosecution: *RGH*, no. 406; of exile: ARA, AGH 1904, fol. 31^{r}, and Van Riemsdijk, 'Zevendeel', p. 426.

[130] For example, Van Riemsdijk, 'Zevendeel', p. 428.

[131] Some examples in Van Riemsdijk, 'Zevendeel', pp. 421 and 424–425.

[132] Van Riemsdijk, 'Zevendeel', p. 420.

there were repeatedly problems with the collection of *maaggeld* or with involving hostile relatives in reconciliation procedures.[133] In 1388 the bailiff of Rijnland and Woerden desperately rode to The Hague for consultation with the Count's Council on the issue of what to do with those families who were implicated in cases of vengeance after a big fight in the Land van Woerden, but who partly lived just over the border in Utrecht territory.[134]

Other problems arose when the kin groups of the perpetrator and victim overlapped, which regularly occurred in the type of small-scale, localized society prevalent in later medieval Holland. In that situation the rule of thumb was that closeness of family relationship determined whether one had to contribute in the *maaggeld* on the perpetrator's side or receive of the *maagzoen* on the victim's side. In one clear case of a family row over a piece of land, in which two men got killed, the High Council's verdict explicitly ordered that all family members who were *equally closely* related to perpetrator and victim should both pay and get money.[135] Finally, problems with the payment of *maaggeld* could arise when complete *vierendelen* or *zevendelen* proved to have died out, which could increase the burden for surviving relatives to an unacceptable level.[136]

A lot of these complications, and the irritations they aroused on all sides, may be conceived of as signs that the times were changing and that blood relatives of perpetrators who had committed vengeance crimes were increasingly unwilling to cover their violent relative's back — even when the wrongdoer was in danger of being executed, as we know from a case from 1393. A man who was pardoned, so to speak, on his way to the gallows apparently needed a special written order of the count to force his kin folk to contribute to the huge amount he had to pay for his pardon (*halslossing*).[137] Already by 1370 the count had met such negative feelings by giving his common subjects the opportunity to buy off their obligation to put up security bail for relatives who got involved in cases of vengeance.[138] A payment in

[133] Some examples: ARA, AGH 1875, receipts Land van Woerden; AGH 1880, fol. 2^{v}.

[134] ARA, AGH 1875, fol. 9^{v}.

[135] *RGH*, no. 340; cf. no. 322. Extremely complicated is ARA, AGH 277, fol. 8^{r}, and 278, fol. 8^{r} (village of Westzaan). Another interesting case is ARA, AGH 1865, fol. 20^{v} (village of De Lier), where the relatives of a man who had gravely injured his own wife had to contribute to the compensation money.

[136] Van Riemsdijk, 'Zevendeel', p. 435.

[137] *RGH*, no. 350. In Haarlem in 1451 a man was so angry about having to contribute to a *maaggeld*, that he threw his coins over the roof of the town hall, 'in contempt of the magistrate', while swearing loud. *Register* [. . .] *Haarlem*, no. 139 (March 1451).

[138] The register with the administration of the receipts has been preserved. It was edited in 1979 by J. C. Kort, 'Inwoners van het platteland van Holland; het register "Vrijkopingen van doodslagen" 1371–1396', *Nederlandsche Historische Bronnen*, 1 (1979), 1–41. For a historical-demographic analysis, see D. E. H. de Boer, *Graaf en grafiek: Sociale en economische ontwikkelingen in het middeleeuwse 'Noordholland' tussen ca. 1345 en ca. 1415* (Leiden:

the accounts of the bailiff of Rijnland and Woerden of 1371–72 suggests that this redemption also covered the obligation to contribute to the *maaggeld*.[139] Whatever the case may be, the opportunity it offered was massively exploited. It linked up to a general tendency to shift as much of the financial load as possible on to the perpetrator himself and his next of kin, thus reducing the financial liability of the wider kin.[140] Alternative ways of achieving the same were to make an appeal on fourth-degree kin only when third-degree relatives failed,[141] and to limit the amount of money relatives were obliged to contribute. For instance, charters of the districts of Zuidholland and of Amstelland and Gooiland of 1322 and 1388 respectively stipulated that in a *maaggeld* for a killing, the perpetrator's kin should not contribute more than five shillings per third-degree relative. These amounts were adjusted upwards and downwards in accordance with the degree of kinship.[142] Very similar provisions were recorded in various other charters — both urban and village charters — from the late fourteenth century.[143]

Should the relatives of a victim of a case of vengeance for whatever reason be hesitant about initiating a trial of reconciliation, or incapable or unwilling to do so, then the count's bailiff or the town's magistrate — if the town had high jurisdictional rights — could take over. This remarkable subsidiary role of judiciary authorities as public claimants in a *zoending* is partly to be explained by the substantial financial interest the count, as we saw, had taken in the reconciliation procedure. A side effect of this change of roles between kin groups and public authorities was that those portions of the *zoengeld* that normally would have gone to the victim's relatives now went to the count as well, as can be deduced from many items in the accounts of the

---

New Rhine Publishers, 1978), pp. 91–94 and 347–54. Even if one had not grabbed this opportunity, sureties had always the right to demand repayment of their bail in court. *RGH*, no. 367.

[139] ARA, AGH 1864, fol. 6^{v} (village of Voorhout): 'Ditto, did some people buy off against my lord [their obligation] to set bail in case of homicide and grave injury, and [their obligation to contribute] to the "big kindred money" (*uten grote maechgelde*), just as my lord's charter implies.'

[140] In December 1390, for instance, the three sons of a man named Dieric Smit, who had been convicted of homicide, were threatened with exile if they would not pay two thirds of the total *zoengeld* of £600 — the other one-third had to be paid by Dieric himself: *RGH*, no. 342.

[141] Stipulated, for example, in the bylaws of Haarlem of 1390: cited by Hoppenbrouwers, 'Maagschap', p. 88. The same stipulation was already made in the Charter of Weesp of 1355, but there it related to the bringing of an accusation in court: Blankevoort, 'Middeleeuwse toestanden', p. 42.

[142] Blankevoort, 'Middeleeuwse toestanden', pp. 41–42 and 61, for some interesting later additions to the charter of Zuidholland of 1303; *Oorkondenboek van Amsterdam*, pp. 323–28, provisions [5], [7], and [9]. The charter of Amstelland of 1388 limited the contribution of third-degree relatives for a *leemte* (grave injury) to two shillings.

[143] Blankevoort, 'Middeleeuwse toestanden', pp. 43 (village of Zevenhoven; town of Geervliet), 44 (town of Leiden), and 59 (a number of so-called rural towns in Westfriesland).

bailiff of Kennemerland and Westfriesland.[144] Another motive for the public initiative in trials of reconciliation may have been that the count/government was no longer prepared to tolerate that cases of vengeance were not formally reconciled. Especially when families of victims stubbornly refused to cease their enmity with the perpetrators and their kin, the count appeared inclined to intervene, although as far as I can see the perpetrator often made the first move by way of an appeal for pardon. An illustration of this is an already mentioned case from the town of Heusden. After a certain Jan van Wijk, a very respectable burgher, had killed the town's bailiff, the latter's relatives refused a reconciliation, but instead started to drain the wealth of Jan and his family by forcing him to stay out of the country and by launching one legal procedure after the other against them. At that point in time Jan, desperate, clutched at the last judicial straw: an appeal for pardon to the count. This procedure, acquiring a so-called *lettre de rémission*, was not cheap either, but the huge advantage of it was that Jan's enemies were forced into a judicial reconciliation.[145] This course of action was increasingly taken when the Dukes of Burgundy ruled Holland. But in the Bavarian period the possibility of buying a pardon from the count already existed, even if it went under another name: not remission but *halslossing*, which literally means 'loosening [= releasing; saving] one's neck'. Just like the later remission *halslossing* probably went together with enforced reconciliation.[146]

However, it also happened the other way round (and countercurrent), that the enemies of a killer paid for preventing him to get away with his life.[147] The victim's kin could even make use of their right to take part in the actual execution of convicted killers, as happened when champion Jacop van der Loet was beheaded. But the private execution of an alleged criminal was forbidden, although not heavily sanctioned. In 1388 two men from the village of Nieuwcoop were fined for no more than £15 because 'they wanted to execute a man from Amsterdam with their own hands'.[148] So, apart from the restricted slaying of exiles, there were one or two other possibilities of more or less legal blood vengeance. But, as far as I can see, these

[144] For examples, see Van Riemsdijk, 'Zevendeel', pp. 429–37. Cf. also ibid., p. 361.

[145] Hoppenbrouwers, *Middeleeuwse samenleving*, pp. 203–04.

[146] Van Riemsdijk, 'Zevendeel', p. 434 (anno 1357); *RGH*, no. 1350 (anno 1393). Cf. Jan Matthijssen in *Rechtsboek van Den Briel*, p. 222, who suggests that *halslossing* was any payment for a financial obligation that was sanctioned with loss of life, e.g. contribution to a *maaggeld*. It is clear that the perpetrator's kin had to contribute to the *halslossing*, like it was a *maaggeld*. See above.

[147] The latter happened to a certain Reinier Capoens on the isle of Texel in 1377–78. Although the bailiff in that case was reluctant and left the decision to the Lord of Texel, this did not help Reiner, because in the end he was beheaded and put on the wheel. Van Riemsdijk, 'Zevendeel', pp. 422–23.

[148] ARA, AGH 1875, fol. 3^{r}. It is not entirely clear whether this fine should be seen as a penalty for breaking the law or as a fee for the exercise of a legal right.

were exceptional. In the County of Holland blood vengeance certainly was not a generally accepted feature of the late medieval culture of violence.

Epilogue

In this essay I have tried to unravel the judicial dealing with so-called cases of vengeance in Holland, for which I ran through various procedural 'tracks'. Together they disclosed a surprisingly sophisticated system, aimed at the prevention of the escalation of violence in general, and the actual execution of blood vengeance in particular, by actively promoting pacification and reconciliation. Needless to say, this system did not work perfectly,[149] but it certainly did work so well that neither a 'system of private justice' with supposed pan-Germanic antecedents, nor anything like the modern, and quite un-Germanic, 'Mediterranean culture of vendetta' — excessively studied by social anthropologists during the last decades[150] — could take root.

This relative success may be sufficient explanation for a remarkable paradox in the evolution of criminal law in the Low Countries that has already been noted by German legal historians of the early twentieth century: how did it come that precisely in this 'progressive' part of western Europe — progressive from the point of view of modern state formation — premodern conceptions and traditions of dealing with homicide lingered so long? Van Caenegem answered this question in 1955 by pointing out that these conceptions and traditions touched on the key values of the Flemish urban communes, which successfully defended their relative autonomy against centralist tendencies.[151] As a historian of Holland and the countryside, I think Van Caenegem's views were too Flemish and urban biased. The system in Holland was by and large the same as in Flanders; in Holland there were unmistakable differences between legal procedures in towns and villages, but they were not fundamental. However, Van Caenegem's second point, the defence of local autonomy against princely centralism, is more persuasive.[152] Perhaps, therefore, we must look for a solution to our paradox in the general circumstances that were prevalent in the

[149] Some examples of reported execution of blood vengeance are *Groot charterboek*, II, 172–73 (Zeeland, 1316); ARA, AGH 1864, fol. 3^{v} (village of Alphen aan den Rijn), and AGH 1864, fol. 5^{r} (village of Voorhout).

[150] But still badly understood in many respects. Cf. Clementine van Eck, who last year defended her Ph.D. thesis on blood vengeance in the Turkish community in the Netherlands: *Door bloed gezuiverd: Eerwraak bij Turken in Nederland* (Amsterdam: Prometheus, 2001). Among other things, Van Eck points out that in Turkish popular culture it is not so much acceptable to take blood vengeance — killing to avenge a prior killing — as to clear tainted family honour (*namus* in Turkish) by killing the defiler.

[151] Van Caenegem, *Geschiedenis van het strafrecht*, esp. p. 333.

[152] See also Van Caenegem's recent article 'Straf of verzoening'.

urbanized coastal areas during the later Middle Ages. Apparently, local communities in Holland and Flanders, both towns and villages, had succeeded better than elsewhere in elaborating, and actively applying, methods of conflict control which managed to achieve justice and reparation for the victim and his family whilst saving the honour of the perpetrator and his kin. The two centrepieces of these rules were containment of violence by minimizing the legally (and morally) acceptable room for taking justice into one's own hands, and a strong pressure to reconcile within a criminal law context. And at every stage of each and every alternative track a remarkable part was granted to the involvement of kin. Given this relative success, local communities, all with their own local customary law, were only prepared to give ground under heavy pressure to a centralizing monarchical state that was keen on taking possession of criminal justice — all criminal justice — as an ideal showcase for the display of its overriding and terrifying power.

How and when this exactly happened is outside the scope of this article. Suffice it to say that despite several measures issued by the Dukes of Burgundy during the second half of the fifteenth century to reduce by statutory law the involvement of kin in cases of vengeance, the old system held until well after 1500.[153] There is no better proof of that than the mysterious disappearance from the historical record of scores of people who committed homicide or murder in early-sixteenth-century Amsterdam. From a careful analysis of more than two hundred violent deaths that were registered in the post mortem reports of the aldermen's court of justice during the period 1524–52, Boomgaard concluded that only one in ten violent crimes ended in a court sentence.[154] So, how could this be? Did 90% of all killers indeed succeed in staying out of the hands of justice? Or can a substantial number of them be accounted for in some other way?

The simple solution to this riddle is that Boomgaard's sources just did not cover the second (reconciliation) and third (*dading*) options in the traditional judicial dealing with cases of vengeance that I have discussed above. The only thing that Boomgaard's data demonstrates is that, in a minority of cases, homicide resulted in a

[153] The most important of which were the 'automatic' pacification of innocent relatives after a homicide for a term of six weeks of 1446 (see above), and the 'perpetual' extension of this term, coupled with a general prohibition on the collection of *maaggeld* in 1462, repeated in many local ordinances during the following years. Pols, 'Middeleeuwsche rechtspleging', pp. 223 and 228, n. 1; Hoppenbrouwers, 'Maagschap', pp. 89–90. The bylaws of the Westfrisian rural town of Sijbekerspel already in 1436 forbade any man to 'collect *maaggeld*' in the town unless it was for an accidental killing committed by himself: Blankevoort, 'Middeleeuwse toestanden', 60–61, who nonetheless contended my claim in Hoppenbrouwers, 'Maagschap' that the involvement of kin in the judicial dealing with cases of vengeance was quickly diminishing during the fifteenth century. In this essay, as one can read, I have indeed been more reserved. Much depends on one's appraisal of the gap between 'progressive' legislation and lingering legal practice.

[154] Boomgaard, *Misdaad*, pp. 78 (Table 3.3), 81, and 90.

death sentence which was actually carried out and registered in the so-called *justitieboek* ('book of justice'). Seen from a broader perspective, the Amsterdam data cast a light on the future but leave the past in the dark. What lay ahead was *justitie* aimed at making perpetrators alone responsible for their crimes, and cutting them loose from the protective shield of family support, which was the heart of the reconciliation procedure that was fading out. Although, fading out? Boomgaard's material proves beyond reasonable doubt that even by the middle of the sixteenth century the past still weighed much heavier than the future.

Keeping It in the Family? Domestic Violence in the Later Middle Ages: Examples from a Provençal Town (1340–1403)*

STEVEN BEDNARSKI

The Question and the State of Research

On a September day in 1342, Peyre Michaelis of Saint-Tulle found his kinswoman being beaten. He came upon her completely terrified, pinned to the ground between the feet of her assailant. As she was being assaulted, her most pressing concern, no doubt, was for the child she bore within her. Peyre intervened to free the woman. Thwarted, the assailant hurled a rock at him. Peyre sustained a wound to the head; a wound his attacker likely felt justified in inflicting, since he had meddled in a matter between wife and husband.[1] Wife assault was a

* Special thanks must be given to Andrée Courtemanche of the Université de Moncton, Michel Hébert of the Université du Québec à Montréal, and Thomas V. Cohen, of York University, Ontario, who read early drafts of this essay and gave valuable feedback. My friend Nancy Prior freely lent her talents with Latin and allowed me to profit from them. Elisabeth S. Cohen of York University lent her excellent eye to a much later draft and helped me sharpen both the argument and the format. I am indebted to all of them for their support and am humbled at having so little to offer in return. The early portion of this research was assisted by the generous funding of the Social Science and Humanities Research Council of Canada. May the council receive my sincerest thanks for its support.

[1] This document and all those mentioned herein are preserved in the Archives Départementales des Bouches-du-Rhône, series 56H. The trial denounced by Peyre Michaelis is located in 56H 986 fol. 184, 24 September 1342. The sources are in Latin, but the language spoken by the contemporaries who created them was Occitan (Provençal). I have thus opted, wherever possible, to restore Occitan personal names. Latin surnames have, however, been retained throughout due to difficulties of correlation.

personal matter, a 'normal part of marriage'.[2] Moreover, 'the use of corporal punishment was widespread within the medieval family'.[3] Despite such assertions, few traces remain of such private violence. The record of Peyre's intervention, however, hints that the veil of secrecy surrounding such historical events is not impenetrable and that the boundaries between private and public were not absolute.

Much of the documented evidence on medieval wife assault is extreme, often the result of homicide. Coupled with evidence of such extreme assaults is a notion that this was a phenomenon strictly between spouses. Communities tended to get involved only when the worst had happened. The resounding lack of documentary evidence around this topic, therefore, suggests it was handled privately by families.

Documents from the Provençal town of Manosque challenge both these preconceptions. First, they reveal incidents of non-lethal wife assault. If we are to achieve a balanced and more sophisticated understanding of this phenomenon, these cases must be considered alongside the more radical evidence. Not all assaults ended in death; by focusing on the extreme, we diminish the actual daily reality. Secondly, the evidence from Manosque displays community involvement in wife assaults. Strangers, kin, and the officers of justice intervened in them. Granted, not every occurrence was prosecuted by the court or meddled with by those outside the *domus*. Nevertheless, the cases which are preserved were deemed, for certain reasons, prosecutable. This prosecutorial judgement had its roots in the community. We cannot dispute Roger Grand's statement that, 'le père de famille a un droit de correction sur sa femme et ses enfants, qu'il peut exercer dans les limites raisonnables d'une juste correction, maritale ou paternelle, même jusqu'à une légère effusion de sang'.[4] While this was no doubt true, the question remains more nuanced. Where, precisely, did these 'reasonable limits' lay? Were they arbitrary? How were they arrived at? By whom? Were they fixed or were there perhaps extenuating circumstances which altered them?

The evidence presented in this essay expands our understanding of medieval wife assault by providing concrete examples of non-lethal occurrences. It demonstrates that outside interference was motivated by a sense of what was reasonable or acceptable. Concepts of acceptability varied depending upon the relationships implicated. In examining this issue, the largely unexplored motives for prosecuting non-lethal

---

[2] Judith M. Bennett, *Women in the Medieval English Countryside: Gender and Household in Brigstock before the Plague* (Oxford: Oxford University Press, 1987), p. 103.

[3] James Buchanan Given, *Society and Homicide in Thirteenth-Century England* (Stanford: Stanford University Press, 1997), p. 195.

[4] Thus 'the father of a family had a correctional right over his wife and his children, which he might exercise within the reasonable limits of a just correction, whether marital or paternal, even up to causing the light flow of blood': Roger Grand, 'Justice criminelle, procédure et peines dans les villes aux XIII^e^ et XIV^e^ siècles', *Bibliothèque de l'Ecole des Chartes*, 102 (1941), 51–108 (p. 94; translation mine). Also see p. 97, n. 6, where he shows that other districts had similar policies.

wife assault will be better illuminated. Finally, the question will be situated beyond the family and within a broader social context.

A second phenomenon may be included alongside spousal assault: child abuse. By incorporating it into the analysis, we are better equipped to measure generic household aggression. Now this combined category, which we may call simply domestic violence, is not one which medievals or medieval courts employed. Still, it is a useful analytic tool in helping us gauge violence within a previously hidden group. Certainly, this combination has been suggested by others. As Jack Goody recently wrote:

> This important aspect of family life has received less than due attention from historians of past time and from anthropologists of present (but other) time. Like the extreme case of murder, abuse is largely a domestic phenomenon. One reason for its neglect has been that, like its quasi-opposite, sexuality, it is largely internal to the family, difficult to observe and absent from personal reports because both are seen as private and to some extent shameful.
>
> Abuse takes two main forms, of women by men (mainly wives by husbands but occasionally sisters by brothers) and of children by adults (usually parents but also other kin and especially quasi-kin). Both sets of abusers held dominant roles in domestic groups.[5]

As Goody noted, our ignorance concerning the details of historical family violence is a direct result of the pervasive silence from traditional sources. Although medievalists draw upon a rich and diverse font of documentation, to date, most of it has remained mute on actual wife or child assaults. By comparison, we understand quite well the theories governing female subordination to men or the corporal punishment of children. We lack, however, hard historical data to show how these were played out on a popular level.[6]

As illustrated by the case of Peyre Michaelis, the criminal registers from the Provençal town of Manosque shed light onto the question of actual domestic violence. They were, moreover, the recent focus of my doctoral thesis dealing with social regulation.[7] While their contents cover a wide range of crimes, a small but important segment addresses instances of domestic violence. As a result of their rich content, they are useful in helping penetrate the secrecy that surrounds the issue, and provide deeper substance for our understanding. They allow us to observe non-lethal incidents of domestic violence and to determine how such acts were judged by the community.

---

[5] Jack Goody, *The European Family: An Historico-Anthropological Essay* (Oxford: Blackwell, 2000), p. 142.

[6] For an overview of the medieval theory that man must dominate woman, see Marie-Thèrese d'Alverny, 'Comment les théologiens et les philosophes voient la femme', *Cahier de civilisations médiévales*, 20 (1977), 105–29. For an overview on disciplining children, see Given, *Society and Homicide*, pp. 194–96.

[7] Steven Bednarski, 'Crime, Justice, and Social Regulation in Manosque, 1340–1403' (unpublished doctoral thesis, Université de Québec à Montréal, 2002).

What is largely known about spousal violence already results from other studies into criminal sources, but even this evidence is thin.[8] In looking to the Inquisition registers of Jacques Fournier, later Benedict XII, Emmanuel Le Roy Ladurie concluded a dismal existence for married women. He based his conclusions upon a few comments made by fearful wives and by men discussing their kinswomen.[9] More concretely, in her extensive analysis into French crime, Claude Gauvard presented the case of Marie La Mugière who murdered her abusive husband of eighteen years. In commenting upon this rather extreme incident, however, Gauvard emphasized the scarcity of such killings by writing that 'cette forme d'homicide est rare'.[10] Marie's tale is contained within the French *lettres de rémission*, letters produced as royal appeals of convictions for major crimes whose punishment was death. The severe nature of these letters precludes them from noting more routine occurrences of domestic abuse.

The state of evidence concerning spousal violence for other parts of Europe is more or less comparable to that of France, although Martha Brożyna's chapter in this volume presents novel Polish information. For medieval England, Barbara Hanawalt's investigation of the coroner's rolls produced other documented instances of extreme violence. She drew attention to the case of Walter le Bedel of Renhold who lured his estranged wife Isabel out of her home and murdered her.[11] She also reported a case of a village which suspected a man of murdering his long-abused wife.[12] The English documentation also reports the trial of a man from Wakefield who murdered his brother-in-law with a hatchet to save his sister from a beating.[13] Another trial centred on a wife murderer who fled to his father's house.[14] Three more reported cases of English domestic violence ended in death.[15]

---

[8] Alternately, Eileen Power looked to more traditional literary and artistic sources to conclude 'Canon law specifically allowed wife-beating, and judging by *chansons de gestes* and by anecdotes related by the Knight of the Tour Landry for the edification of daughters, such punishments were practised in the highest of circles'. Still, such literary evidence needs to be corroborated with practical traces. Eileen Power, *Medieval Women* (Cambridge: Cambridge University Press, 1976), pp. 16–19.

[9] Contained in the controversial Emmanuel Le Roy Ladurie, *Montaillou: The Promised Land of Error*, trans. Barbara Bray (New York: Vintage Books, 1979), pp. 192–94.

[10] Claude Gauvard, *'De grâce especial': Crime, état et société en France à la fin du Moyen Age* (Paris: Publications de la Sorbonne, 1991), p. 314.

[11] Barbara Hanawalt, *Crime and Conflict in English Communities, 1300–1348* (Cambridge: Harvard University Press, 1979), p. 165.

[12] Ibid.

[13] Ibid., p. 166.

[14] Barbara A. Hanawalt, *The Ties that Bound: Peasant Families in Medieval England* (Oxford: Oxford University Press, 1986), p. 208.

[15] The cases of Walter le Bedel and the hatchet-wielder, along with three others, have been reprinted in English in *Love, Marriage, and Family in the Middle Ages: A Reader*, ed. by Jacqueline Murray (Peterborough, Ont.: Broadview Press, 2001), pp. 392–93.

Despite the French and English examples, not all known criminal records of domestic violence resulted in a death. Hanawalt found evidence of two Wakefield men who promised the court that they would treat their wives well.[16] Another man, Thomas Assholff, allegedly beat his wife and drove her from his home.[17] J. B. Given remarked upon an unusual case from a manorial court in which a husband was ordered to beat his deviant wife.[18] Finally, courts of canon law sometimes accepted cruelty as cause for separation.[19] Still, these known traces of non-lethal domestic violence are few and far between. As such, we have, up until now, been hampered in our desire to understand spousal assault not leading to death.

What of the second form of domestic violence identified by Goody, violence perpetrated by parents against children? On this issue, like spousal assault, much of what is known comes from the most severe cases. In part, this results from historians' interest in demographics and birth control. The call went out thirty years ago to study medieval infanticide, a phenomenon quite distinct from other forms of child abuse.[20] More recently, scholars have continued that investigation.[21]

Outside of infanticide, there is little documented evidence on child beatings. Hanawalt found that 'Recorded cases indicate that corporal punishment was normal in dealing with children who misbehaved, but that extreme reprimands came to community attention'.[22] She then went on to cite two cases in which the children died. Similarly, J. B. Given's eyre records report two cases in which the children allegedly died as the result of a violent accident; their fathers had meant to attack their mothers.[23]

---

[16] Hanawalt, *Crime and Conflict*, p. 166, and *The Ties that Bound*, p. 208.

[17] Hanawalt, *The Ties that Bound*, p. 208.

[18] Given, *Society and Homicide*, p. 195.

[19] Hanawalt, *The Ties that Bound*, p. 211. For more on separation *a mensa et thoro* due to cruelty, consult R. H. Helmholz, *Marriage Litigation in Medieval England* (Cambridge: Cambridge University Press, 1974).

[20] Richard C. Trexler, 'Infanticide in Florence: New Sources and First Results', *Journal of Childhood Quarterly*, 1 (1973), 98–116. David Herlihy and Christiane Klapisch-Zuber, *Tuscans and their Families: A Study of the Florentine Catasto of 1427* (New Haven: Yale University Press, 1985), pp. 145–48. Emily R. Coleman 'L'infanticide dans le Haut Moyen Age', *Annales: E. S. C.*, 29 (1974), 315–35. Hanawalt discovered only two English instances of infanticide prosecutions among 4000. See Barbara Hanawalt, 'Childrearing Among the Lower Classes of Late Medieval England', *Journal of Interdisciplinary History*, 8 (1977), 1–22.

[21] For France, Nicole Gonthier presented some documented instances of infanticide from the Lyonnais. Consult the index in Nicole Gonthier, *Délinquance, justice et société dans le Lyonnais médiéval de la fin du XIII^e siècle au début du XVI^e siècle* (Paris: Editions Arguments, 1993).

[22] Hanawalt, *The Ties that Bound*, p. 183.

[23] Given, *Society and Homicide*, p. 195.

So, what little is known about violence in the medieval home tends to focus on extreme, infrequent, and, therefore, atypical cases. In this light, the Manosquin documentation proves a useful addition. It records non-lethal cases which, despite being unusual for having been prosecuted, were surely closer in tone to routine domestic assaults than those leading to death. Although the previous dearth is the result of the incompleteness of medieval sources, it is still surprising, given the popular belief that the Middle Ages was a violent time in human history. It is all the more surprising, given recent scholarly attention into violence as a social phenomenon.

In approaching the issue of violence in the Manosquin sources, we must be aware of the danger of anachronism. The word violence was a legal term, not necessarily present in the popular vocabulary and whose placement in the popular mindset is far from certain. David Riches has demonstrated that our notions of violence may well not have been shared by medieval men.[24] He remarked, 'to the Anglo-Saxon [i.e. English-speaking] mind, "violence" strongly connotes behaviour that is in some sense illegitimate or unacceptable [. . .]. However, for the performer of violence this particular implication may well be played down or even be completely absent'.[25] Violence is very much a term of opprobrium and is seldom used by the authors of forceful deeds. Its conceptual purpose is to judge or to assess. At its core, labelling an action violent implies, for English speakers, a judgement of illegitimacy.[26]

Not only might the aggressive men of Manosque have evaluated their actions differently than we do, but their general understanding of harm differed from our own. Recently, scholars have broadened our understanding of late medieval conceptions of harm. Riches, citing witchcraft and sorcery, noted that 'in many non-Western societies, much physical hurt is *invisibly* enacted'. Certainly, this was true in the later Middle Ages.[27] In the Mediterranean, at least, insult and slander provided the occasion for verbal violence.[28] David Nirenberg has shown that medieval courts of law could be similarly used to damage reputation and inflict 'accusational or judicial violence'.[29] Daniel Lord Smail has proved the medieval court of Marseille facilitated

[24] David Riches, 'The Phenomenon of Violence', in *The Anthropology of Violence*, ed. by David Riches (Oxford: Blackwell, 1986), pp. 1–27.

[25] Ibid., p. 1

[26] This begs the question: what terms might medieval perpetrators of aggression have used to label their own actions? Answers to such questions are unknowable using these sources.

[27] Riches, 'Phenomenon of Violence', p. 8.

[28] The Manosquin criminal court vigorously prosecuted slander and insult. See Bednarski, 'Crime, Justice, and Social Regulation', as well as Andrée Courtemanche, 'La rumeur de Manosque: Femmes et honneur au XIV^e siècle', in *Normes et pouvoir à la fin du moyen âge*, ed. by Marie-Claude Déprez-Masson (Montreal: CERES, 1989), pp. 127–44. See too Christian Vachon, 'Les Violences verbales à Manosque au tournant du XIV^e siècle (1284–1330)' (unpublished masters thesis, Laval University, 1989).

[29] David Nirenberg, *Communities of Violence: Persecution of Minorities in the Middle Ages* (Princeton: Princeton University Press, 1996), p. 128.

such attacks and, in so doing, engendered institutionalized hatred.[30] All of these forms of assault were, in the fourteenth century, seen as being *potentially* physically damaging. In Manosque, the criminal court prosecuted them alongside actual physical assaults. This is important and must be borne in mind when we consider the limits placed upon abusers. A man who simply punched his wife abused her less than one who punched her to the same extent and screamed insults at her in public.

Since the task of the historian, like the anthropologist, is not to label but to understand, the issue of assessing becomes more or less secondary to our purposes. In studying domestic violence, this essay does not seek to render judgement. More important, it seems, is to attempt to decipher the *significance* attributed to apparently violent actions. This is especially true since violence was a 'normal way of pursuing goals within (conflictive) relationships'.[31] What goals, either practical or symbolic, did it serve in the home? What strategies were employed in executing them? What familial relationships were implicated? What meaning was assigned to apparent violence? What moved the court to prosecute some domestic assaults and not others? What dictated the 'reasonable limits' observed by Grand? In this sense, the approach adopted by Riches, and adapted through the historical writings of David Nirenberg, proves useful to us. Taken in that light, the Manosquin criminal records become all the more important. Each of them represents prosecuted allegations of non-lethal domestic violence. They are as moments frozen in time, allowing us to study the limits, goals, strategies, relationships, and meanings attached to fourteenth-century domestic violence. This permits us, for the first time, to begin to understand the relationship of the abused and the abuser to those outside the *domus*. What we see is that violence was not always terminal or closeted. Often, it implicated outsiders and formed part of an ongoing communal relationship.

The Context and Sources

To appreciate the placement of domestic violence within the Manosquin community, it is important to present the community, its court, and its mode of justice. The fourteenth-century town of Manosque was a seigneurial holding of the Hospital of Saint John of Jerusalem, inherited from the last Count of Forcalquier. Along with the walled town, perched upon the left bank of the Durance River, the Order had inherited the right to dispense justice, high, middle, and low, within Manosque's territories.[32] Held in trust by the preceptor (*praeceptor*) of Manosque, this right

[30] Daniel Lord Smail, 'Hatred as a Social Institution in Late Medieval Society', *Speculum*, 76 (2001), 90–126.

[31] Nirenberg, *Communities of Violence*, p. 30. Earlier, on pp. 9 and 10, the author had already expressed that all conflict, even war, has at its core the desire to unite or establish relations.

[32] M.-Z. Isnard, *Livre des privileges de Manosque: Cartulaire municipal Latin-Provençal (1169–1315)* (Paris: Champion, 1894).

included forms of justice elsewhere deemed royal: the Hospital's court had the right to prosecute homicide, rape, treason, forgery, and threats to the public safety or to the officers of justice.[33]

The preceptor did not directly police the town or execute justice. Rather, he named a bailiff (*bajulus*) to oversee enforcement. This man, invariably a knight of the Hospital, in turn annually appointed a judge to the criminal bench. Since the court was secular, judges were laymen with some legal training, but their exact qualifications are unclear.[34] As was custom throughout Provence, the town named two judicial overseers, *probi homines*, to monitor verdicts and to advise the court.[35] They were especially interested in ensuring judges adhered to fixed penalties when sentencing. These penalties had been spelled out in an Instrument negotiated by the community and the Hospital in 1235. This *Instrumentum compositionis super maleficiis* outlined twenty-five crimes and was used by judges in sentencing. It does not contain penalties for high crimes such as murder or treason, as these were no doubt considered outside the community's ability to negotiate. Still, on a daily basis, the majority of crimes prosecuted by the court were those contained in the Instrument.

It is important to stress that all offences heard by these judges were considered criminal. Thus, insult and slander were prosecuted by a single court equally mandated to investigate arson, theft, assault, and all forms of high crime. Fourteenth-century Provençal justice, operating under the strict rules of Roman law, made no distinction between crimes, or felonies, and misdemeanors. Civil suites were treated separately, but even these were very often transferred to the criminal justice system in the interests of time and expense.

The fourteenth-century criminal court of Manosque was a court of inquest. Its mechanism could be initiated in one of two ways. First, it proceeded based on denunciations (*ad denunciationem*). Denouncers were barred, however, under Roman law, from giving testimony in their own cases.[36] Second, the court proceeded, through its inquisitorial mandate, of its own initiative (*ex officio curie*). Rumours, therefore, equally moved it to try alleged criminals.

Justice was a public event, one that was broadcast throughout the community and integral to its daily life.[37] Trumpeters and heralds summoned neighbours to court; justice may, on occasion, have been conducted in the marketplace; witnesses came

[33] Isnard, *Livre des privileges de Manosque*, p. xlvii.

[34] See Bednarski, 'Crime, Justice, and Social Regulation'. More broadly, on the qualifications of Provençal civil servants, consult Jean-Luc Bonnaud, 'Les Agents locaux de l'administration royale en Provence au XIV^e^ siècle: catalogue et étude des carriers' (unpublished doctoral thesis, Université de Montréal, 1996).

[35] Isnard, *Livre des privileges de Manosque*, pp. xx, 3, and 4 inter alia.

[36] Bernard Schnapper, '*Testes inhabiles*: Les Témoins reprochables dans 1'ancien droit pénal', *Revue d'histoire du droit*, 33 (1965), 576–616.

[37] Bednarski, 'Crime, Justice, and Social Regulation'.

and went giving testimony and reporting back to their neighbours as to their interrogations; verdicts were pronounced publicly at regular judicial *parlements*. In short, the community was constantly drawn into the workings of its trials. Prosecutions involving domestic violence were treated with no special secrecy or sensitivity.

By the thirteenth century, the town governed by the preceptor and his court contained approximately five thousand souls. Post-plague figures are unavailable, but we may assume that the fourteenth-century inhabitants numbered between one-half and two-thirds of that figure. These included agricultural labourers, who made up the majority, as well as an established middle class of artisans, craftspeople, physicians, notaries, lawyers, and an important Jewish community. Manosque benefited from frequent waves of immigration, from nearby locales and those more distant. All of these individuals, regardless of wealth, profession, or place of origin were subject to the justice of its criminal court. Only those who could prove *privilegium clericali* were exempt. All of them appear in the records of domestic violence.

Having explained the society that produced these records, it is necessary to describe the documents themselves. From 1340 to 1403, the court has transmitted to us 1543 criminal cases. These trials span twenty-five bound registers, and are written on some four thousand legible pages. Among them are ten trials involving wife assault and a few treating child assault (see Tables 1 and 2). While the small number of cases precludes statistical conclusions, qualitative examination supplies rare and valuable information.

The first trial to be discussed, like that of Peyre Michaelis, whose trial is fourth, involved an outsider who intervened in a beating. Unlike Peyre, Uc Roche stood charged with a crime. Uc was a foreigner from nearby Dauphin. The court alleged that he had used a bat to savagely attack an abusive husband. The husband, Jacob, suffered a wound above the eye. Now, in order to determine guilt, the court summoned eye witnesses to the assault. The first man gave sworn testimony that he had seen Jacob beating his wife with a bat. He had then observed Uc intervene in the beating. During the scuffle to separate the battling spouses, the witness observed that the husband was bleeding over his eye. He stated, however, that he doubted Uc had inflicted the wound. Two subsequent female witnesses confirmed his version of events and agreed with his assessment. The accused man's sister posted bail for him, and the trial was dismissed for lack of proof.[38] So, the witnesses condoned Uc Roche's intervention in a spousal matter.

[38] In cases where the charges were not severe, accused persons were released back into society pending a judicial resolution. This release was not without condition, and it was required that they provide some sort of surety or bond to the court. Invariably, this bond took the form of a *fidejussor*, or oath swearer. This person agreed to give bond for the good behaviour of the accused and ensured that that person would not attempt to flee justice. About one-third of all trials required such a surety. *Fidejussores* were selected from those sharing tight bonds of kinship with suspects, either close relations or friends of the accused. *Fidejussores* put themselves at considerable risk, offering up their worldly possessions or large sums of money in the event that the object of their oaths should flee justice.

TABLE 1: Trials Pertaining to Wife Assault (1340–1403)

No.	Register and folio	Date	Nature of offence	Impetus	Outcome
1.	56H 986 fol. 7	03/07/1341	Good Samaritan implicated after stopping a husband from beating his wife	*Ex officio curie*, at prompting of husband	Not proven
2.	56H 986 fols 17–17^{v}	04/16/1341	Husband beat wife so severely she was unresponsive and confined to bed.	*Ex officio curie*	Dismissed due to clerical privilege
3.	56H 986 fols 146–146^{v}	06/10/1342	Husband attacked wife with sword while she slept. Confessed to being half drunk at the time.	*Ex officio curie*	Confessed
4.	56H 986 fol. 184	09/24/1342	Husband beat pregnant wife and attacked her relative who intervened.	Denounced by victim's relative	Confessed
5.	56H 996 fols 117–117^{v}	11/05/1366	Jewish husband beat wife despite prior fine	*Ex officio curie*	Confessed
6.	56H 997 fol. 131	08/08/1369	Jewish husband tried to suffocate his wife. In the following trial, her saviour is charged with assaulting him.	*Ex officio curie*	Confessed
7.	56H 997 fols 18–19	01/16/1370	Husband beat wife for refusing to give him keys to stable. Nephew also threatened to kill her.	Denounced by victim's brother	Absolved
8.	56H 997 fols 52–52^{v}	03/01/1370	Attacked wife with sword.	Denounced by victim	Absolved
9.	56H 1001 fols 108–108^{v}	12/04/1394	Husband beat mother-in-law who tried to protect her daughter from him.	Denounced by victim	Confessed
10.	56H 1007 fol. 44	05/29/1403	Good Samaritan attacked while interrupting wife beating	Denounced by subvicar	Confessed to resisting arrest

TABLE 2: Trials Pertaining to Child Assault (1340–1403)

No.	Register and folio	Date	Nature of offence	Impetus	Outcome
1.	56H 997 fols 108–108^{v}	07/22/1369	Mother claims woman beat her child and therefore attacks her	Denounced by mother	Confessed
2.	56H 1000 fol. 45	01/21/1393	Complaint of child assault	Denounced by male relation	Absolved
3.	56H 1005 fols 31–31^{v}	07/27/1400	Complaint of life-threatening child assault	Denounced by victim	Confessed
4.	56H 1003 fols 20–21	07/25/1397	Attempted rape of serving girl	*Ex officio curie*	Dismissed due to clerical privilege
5.	56H 1003 fols 25–27^{v}	07/28/1397	Rape of simple girl	*Ex officio curie*	Contumacious (accused fled)

The second trial was an actual prosecution of a wife beater. Bertran Astergii, a native of Manosque, was charged with using a pestle, his hands, and his feet to beat his wife on her head, stomach, and elsewhere. So thorough was the beating, in fact, that, as a result of her injuries, she was confined to bed. Several witnesses attested to the attack, which took place in the doorway to the couple's home, that highly visible threshold between public and private spaces.[39] Chief among them were Blanche, a relative of the victim, and both Blanche's serving woman and her sister-in-law. Since the victim was too injured to appear in court, a notary was dispatched to her sickbed, where he inquired as to whether her husband had truly used a pestle on her. She replied that he had used nothing but his bare hands. Finally, Bertran Astergii appeared in court. He confessed to slapping his wife twice. He said he had done so because she called his mother a villain (*villana*). Because Bertran was able to prove he had been made a cleric in 1322, and was not, therefore, subject to secular justice, the case was dismissed.[40]

In the third trial, the accused man arrived home late at night and attacked his wife where she slept. He wounded her in the head, left ear, and right arm, causing profuse bleeding. The accused confessed that he was somewhat drunk (*quasi ebrius*) at the time; so much so that he could not recall what object he had used against his wife. It was his sword. Still, he stated adamantly, he had certainly not believed he had hurt her ('pro certo non credebat eam vulnerasse'). Following the inquest, the victim of his drunken rage stood as *fidejussor* for him. Since he had appeared immediately in court and confessed, no witnesses were called. He paid the fine and the matter was closed.[41]

The fourth trial is that of Peyre Michaelis, our Good Samaritan. The fifth implicated Salvatus, a Manosquin Jew, accused of beating his wife despite previous judicial warnings. He admitted a previous fine, although for a different affair, and denied beating her. Nevertheless, it took only one witness to cause him to recant. Salvatus confessed and paid the court.

The sixth trial tells of how another Jewish inhabitant of the town was frustrated in his attempt to strangle his wife. A witness named Bertran admitted that he and some others had rushed into the couple's home when he heard the woman's screams. Upon entering, he found the accused throttling her. Without any resistance, the implicated husband confessed and paid the fine. This was not the end of the affair, however. As with our other Good Samaritans, the angry husband sought revenge against one of the men who had thwarted him. The following trial in the register indicates, '[. . .]

[39] On doorways and their symbolic significances, see Elizabeth S. Cohen and Thomas V. Cohen, 'Open and Shut: The Social Meanings of the Cinquecento Roman House', *Studies in the Decorative Arts*, 9 (2001–02), 61–84.

[40] For an introduction to the theme of married clerics, consult R. H. Bautier '"Clercs mécaniques" et "clercs marchands" dans la France du XIII^e siècle', *Académie des Inscriptions et Belles-Lettres. Comptes rendus* (1981), 209–42.

[41] Over 99% of all trials in the Mansoquin criminal registers ended in fining. Corporal punishment was exceptionally rare and was reserved for foreigners. See Bednarski, 'Crime, Justice, and Social Regulation'.

that when the aforementioned Jew, Bonizatus Cohen, was beating Mancozeta, his wife, inside his home, the accused Raimon entered the said home in order to murder the Jew'.[42] Raimon was absolved.

In the seventh trial, a notary denounced his brother-in-law. The notary claimed his sister's life was in danger not only from her husband but also his nephew. First the nephew was accused of attempting to murder his aunt in her sickbed using an iron bar. Next, the denouncer alleged the husband beat his sister so badly, using a bat, that she was feared dead. Both husband and nephew were subsequently absolved for lack of evidence. During his testimony, moreover, the husband gave his reason for beating Alasaycia, his wife: she had refused to hand over the keys to the stable ('dicta Alasaycia sua uxor nolebat sibi clavem stabuli sui tradere'). Each man claimed to know nothing about the charges against the other. When asked about his nephew's behaviour, though, the husband replied that, while he did not witness the event in question, he believed him innocent. He added that his brother-in-law, the notary denouncer, was an idiot and a drunkard ('quia stultus ille qui denunciavit, ebrius erat').

The eighth trial was initiated by the victim herself. She told the court that her husband had used his long sword on her while she was visiting a respectable neighbour. She said that she was badly wounded on her hand. Her mention of the long sword was a deliberate strategy. The town had a prohibition, carrying a separate fine, against publicly bearing such weapons. No doubt the wife knew that if her claim of assault was ignored, the court would be more inclined to investigate the accusation of bearing a weapon of this type. Still, her claim seems not to have received community support. A first witness said she knew nothing about the incident. A second said she only saw him slap her on the mouth. Ultimately, the accused husband told the judge that he had merely given his wife a little slap to correct her, because she was not doing the work he wanted ('quod cum manu modicam alapam sue uxori predicte dedit correxionis causa quia non fecit opera que ipse vellet'). Since assault had not been proven, he was absolved.

The ninth trial involving wife assault centred on a woman who had fled her husband's home due to the beatings ('pro eo quia dictus ejus maritus ipsam verberaverit'). She returned to live with her parents and he pursued her. His mother-in-law, however, refused him entry. He proceeded to kick her in the stomach, knocking her down. Having begun his assault, he continued kicking her. Subsequently interrogated by the court, he confessed to beating his mother-in-law. While he paid a fine, he denied any other aggression. Once again, however, the wronged husband was enraged at outside interference. In the following record, he complained to the judge about his mother-in-law's meddling. He stated that she had refused to let his wife return home with him. He further accused her of grabbing him by the tunic and tearing it. And so, the tables were turned: soon the man's mother-in-law found

[42] '[. . .] quod cum predictum Bonizatus Cohen judeus Mancozetam uxorem suam verberavit infra domum suam ipse inquam Raymundus delatus domum predictam intravit causa offendendi eidem judeum'.

herself being interrogated. She stated on record that she had not meant to attack him, that she was merely defending her daughter. This did not excuse her aggression, however, and she too was fined.

The poorly preserved tenth and final trial of wife abuse concerns Bartomieu Boneti. This townsman was charged with attacking his wife and trying to murder his donkey ('quod delatus ipse motus malicia [venit] contra uxorem suam et quendam asinum suum quem interficere volebat'). An unnamed woman intervened and told him that he was behaving badly (*quod male faciebat*). Typically upset at her interference, he called her a whore (*appelavit putan*) and threw two stones at her. With standard rhetorical flourish, the court stipulated that the rocks were meant to kill. Bartomieu denied these allegations, but admitted to resisting arrest when the subvicar came to take him away. Following his deposition, Bartomieu's wife gave bond for him. The unnamed woman who had attempted to stop his spousal assault testified that he screamed 'you don't know us!' (*non nos conoysam!*).

These ten trials show evidence of what might be considered routine wife abuse. They are routine insofar as no death resulted. At the same time, the fact that they were prosecuted marks them as distinct. Severity plays a part in this distinctiveness. The repeated involvement of outsiders also helps explain their presence in the criminal series. But did the community and the court treat child abusers in a similar fashion? In other words, were the levels of outsider involvement — individual or institutional — comparable? This remains to be seen.

There are a mere three trials mentioning simple and non-lethal assaults on children. In addition, there are two trials of juvenile rape. The scarcity of information is no doubt due to two principal factors. First, that the court did not consider this occurrence prosecutable, unless the situation was particularly severe or it involved other trespasses. The second factor relates to the problem of the age of the victims. Manosquin scribes did not, like their English juridical counterparts, record ages, nor did they often provide hints as to age. As a result, it is difficult for us to know whether a victim of an assault was in fact a child.[43] In the cases presented, the issue is unquestionably made clear by the use of descriptors (i.e. *infans* in the sense of *enfant*). In others, context sometimes allows us to infer that a victim was a minor, but the documents do not corroborate it. Faced with such ambiguities, it seems best to treat only what is known for certain.

Two cases involve women who beat the children of others left in their care. While they share similar features, they are the only surviving examples of such prosecutions. The first saw Monna, wife of Jacob Autranni of Manosque, denouncing Alasacia Conilha. She said that Alasacia entered her home, grabbed her head covering, and hurled it down the stairs.[44] Alasacia told the court that she had done so having

[43] This reinforces the fact that the categories used in this analysis are modern and were not shared by medievals.

[44] Removal of another's head covering was a severe attack on personal honour. Gauvard, *'De grâce especial'*, p. 724, calls it 'la pire des infamies'. Similar conclusions have been

learned that Monna had beaten her young child. She paid a fine but Monna was never charged. Similarly, in the second trial, Beatrix, wife of Monet Uverni, was accused of beating children in her care. The denouncer, father and uncle to the youngsters, alleged that she savagely beat them. She was absolved for lack of proof.

We may add another assault to these two cases of women beating others' children. Strictly speaking, this is not an incident of domestic violence, since there is no apparent domestic link between attacker and victim. Still, it is included because it shows a legal response to the beating of a child. On 27 July 1400, Stephan Rufaudi was denounced by his victim, or, more likely, that child's unnamed legal agent. Alibert, son of Bertran Malemtrati, described as an *infantem juvenem*, claimed that Stephan had beaten him with a bat, broken both his arms, wounded him elsewhere, and left him for dead. The court called upon the expert services of one of the town's Jewish physicians, Vivas Josep, to confirm the injuries.[45] Stephan, however, did not dispute the assault. Rather, he told the court he had attacked Alibert for having beaten another boy.

Finally, the documents preserve two rape cases involving young girls. The first is definitely a domestic assault. It saw a married cleric accused of attempting to rape his young serving girl. His wife allegedly interrupted him when she heard the screams, but had a convenient lapse of memory during the trial. The girl told her father she was assaulted. Despite parental outrage, the cleric confessed only to having properly beaten the girl for not bringing a book he requested. He explained 'quia erat iratus de dicto libro ipsam percusit eam corigendo ut dominus potest facere de servientibus'. In the second juvenile rape, the relationship between rapist and victim is unclear, but the assault occurred near her home and she seems to have known her attacker. The victim is described as 'puella infans et [. . .] animal simplex'. It is unclear whether the latter portion of the description is a comment on her tender age or on her mental capacity.

These cases constitute the entire corpus of trials which leave no doubt that the victim was a young child and the assaulter an adult. Taken alongside the wife assault cases they represent the most striking evidence for domestic violence contained within this series. What light, if any, do they shed onto the significance of late medieval domestic violence and its place in community life?

---

drawn for the Lyonnais and Artois. Robert Muchembled called the head 'la réserve territoriale la plus éminente de chacun'. Gonthier, *Délinquance*, p. 71; Robert Muchembled, 'Violence et société: Comportements et mentalités populaires en Artois (1400–1660)' (unpublished doctoral thesis, Université de Paris I, 1985), p. 422.

[45] For another of Vivas Josep's learned testimonies before this court, consult Andrée Courtemanche, 'The Judge, the Doctor, and the Poisoner: Medical Expertise in Manosquin Judicial Rituals at the end of the Fourteenth Century', in *Medieval and Early Modern Ritual: Formalized Behavior in Europe, China and Japan*, ed. by Joëlle Rollo-Koster (Leiden: Brill, 2002), pp. 105–23.

Analysis

Beginning with spousal assault, there are six fundamental points we may draw collectively and then contrast to child abuse. The first and most elementary point pertains to the secular forum of these cases. Since marriage was a canonical institution, it may be expected that these trials might have appeared before an ecclesiastical court. They were instead heard by this secular court due to its fundamental goal of enforcing social regulation. This court prosecuted a range of offences, regarding as criminal those acts which threatened social stability. Hence, adultery was prosecuted because it wreaked havoc upon inheritance. Similarly, while no municipal statute barred men from striking their wives, the risk of social upheaval, in extreme cases, prompted the court to act. It did so without moralizing or using excessive rhetoric. It treated all forms of assault as illegal and prosecuted them using the same ritual and language. Thus, the mother-in-law who claimed to have acted to defend her daughter was censured to the same extent as her abusive son-in-law. All assaults threatened stability and warranted judicial regulation.

The second point speaks to institutional involvement. Five of the ten spousal assault cases were initiated by the court rather by a concerned party. Although the small number of trials prevents us from drawing any strong conclusions, this is important. The court was willing and able to seek out abusers and prosecute them. Such judicial action, however, was not unusual at this time. Indeed, it is one of the features of fourteenth-century Manosquin justice. Fifty percent of trials between 1340 and 1403 named private denouncers, 10% were denounced by officers of the court, and 40% were initiated *ex officio curie*.[46] Thus, in cases of spousal assault, as in all crimes, the court was active in initiating trials against suspects.

So, by the fourteenth century, the concept of crime as an affront to the public good was firmly ensconced in the mindset of secular courts. This concept clashed resoundingly with honour and family codes, demonstrating in a true sense a form of interference. Generally speaking, it was routine for the court to act as denouncer in cases resulting from brawls or sword fights. These public displays of violence were seen as potentially contaminating to society and demanded regulation. Still, the court's willingness to interfere with assaults directed at wives demonstrates that its officials also viewed these attacks as potentially upsetting to the greater good. Court officials did not necessarily allow paterfamilial authority to hinder justice.

Thirdly, the spousal assault trials provide clear evidence of extended kin support for females and raise doubts about where the boundaries of 'the private' lay for a couple. Several trials extend beyond the immediate husband-wife relationship and implicate members of the broader family. One woman fled to her father's home when beaten, another's notary brother alleged that his sister's spouse had threatened her life, and Peyre Michaelis leapt to his pregnant kinswoman's defence. Each of

[46] Bednarski, 'Crime, Justice, and Social Regulation'.

these scenarios reveals a part of the process leading up to a trial. They show how family matters might escalate to legal matters. As well, they speak to a girl's continued relationship to her birth family.[47] While there is no doubt truth in the notion that girls were married off into other families and became extensions of their new husbands' domain and wealth, in practice this was more nuanced. Girls continued to be protected by the family that had raised them and to benefit from their original network of solidarity. The intervention of a woman's relatives in assault cases situates her within a broader kin network. When a husband was perceived to have failed in his obligation to their daughters and sisters, her kin might exercise their option of intervention. If acted upon, intervention emphasized the husband's existence outside of the web of solidarity and heightened tensions, recalling his premarital status. In such cases, husbandry was pushed into the background as older kin links shifted to the fore. Yet such actions, even temporary, must have placed enormous strain upon the kin network, prompting familial civil war. This might be posited as one reason that such a strategy shows up so rarely in the documentation; it was costly and damaging to structural integrity. Surely, most families of married girls chose not to adopt this dangerous route, preferring to allow things to play out and to uphold the networks they had negotiated. Still, at a certain point, some families clearly felt a line had been crossed. This element of perception is vital yet unquantifiable. Standards no doubt varied and it is unfortunate that we cannot observe how much families were willing to tolerate before taking action.[48]

Fourthly, it is important to note that a woman's relatives, that is, those with a vested (financial, emotional, psychological) interest, were not the only ones to rise to her defence. The first spousal trial had a stranger, a foreigner, separating husband from wife. The husband was so irate at the intervention that he took that man to court. The sixth trial likewise had Christians bursting into a Jewish home, violating a powerful social taboo, to save a battered wife. The last trial saw a widow challenge a battering husband. She was attacked for not minding her own business, allegedly even called a whore.[49] Much like concerned family members, outsiders who intervened in wife assault did so at a price. Having interrupted a husband's rage, they risked becoming its object. Still, documented instances of such intervention speak to individuals' sense of right and wrong and provide insight into mentality. It is likely

[47] See Andrée Courtemanche, *Le Richesse des femmes: Patrimoines et gestion à Manosque au XIV^e siècle* (Montréal: Bellarmin, 1993), p. 170 and passim.

[48] The tensions between agnate and cognate are not only observable in spousal assault trials. One adulteress broke down and confessed to lying about the father of her child for fear of escalating the vendetta between her brother and new husband. Steven Bednarski, 'Whence Springs the Lie? Motive and Judicial Fraud in the Manosquin Criminal Court (1340–1403)', in *Shell Games*, ed. by R. Raiswell, M. Crane, and M. Murray (Toronto: University of Toronto Press, forthcoming).

[49] Accusing an innocent woman of prostitution was a punishable offence in Manosque and was frequently prosecuted by the criminal court.

such individuals would only have acted if they believed they had communal support. This speaks to popular consensus and perceptions.

As a fifth point, we must consider outcomes. The 1341 case against the Good Samaritan who defended a battered wife and was accused by the husband of wounding him was dismissed. While the witnesses corroborated the Samaritan's intervention, they refused to implicate him in any wrongdoing. At the same time, the court did not proceed to try the implicated husband for abuse. Perhaps it felt he had already suffered enough through the indignation of having his authority publicly tempered by a foreigner.

Just as revealing are the guilty verdicts. The husband who attacked his sleeping wife with his sword, the one who thrashed his pregnant wife, the Jewish repeat offender, the strangler, and the man who battered his protective mother-in-law, all confessed. This supports the trend that confession was the most likely outcome in this court.[50] In this respect, husbands accused of battering their wives proved to be no different from other suspects.

Now, aside from the cases involving clerics, only two men were absolved; these two instantiate evidence of an important prevailing norm stating that severity was, at least partially, tempered by cause. The first man declared innocent gave a reason for his assault; he claimed his wife had refused to give him the keys to the stable. The second innocent man saw his wife denounce him for attacking her with his sword. This was the only time a wife spoke up for herself. Since she was unable to produce evidence, the case was dismissed. Her husband, however, still willingly admitted to slapping her since she refused to do what he wished. Evidently, therefore, both men provided plausible explanations for their assaults. This reinforces what we know of contemporary beliefs and penetrates to the core of the matter. While the court acted independently to seek out and regulate excessively abusive husbands — those who endangered life, who threatened pregnancy, who used weapons — it perceived no offence where only moderate harm was done. Moreover, any moderate injury, motivated out of a desire to restore husbandly authority, was condoned. It was seen as beneficial, since it maintained conventional relationships of power. This provides substance to Roger Grand's belief that husbands could beat moderately to maintain superiority.[51] It is also an example of how medieval perceptions of violence and its purposes differ from our own.

Sixth, and finally, the prosecution of abusive spouses, even those resulting in acquittals, was likely used by families as a means of pressuring men into behaving properly. Natalie Zemon Davis has studied the French tradition of *charivaris* which humiliated errant husbands before their community.[52] Quite possibly, denouncing a

[50] Confessions account for two-thirds of all outcomes. See chap. 2 of Bednarski, 'Crime, Justice, and Social Regulation'.

[51] Courtemanche, *Le Richesse*, p. 125, also discusses moderation in wife beating.

[52] Natalie Zemon Davis, 'The Reasons of Misrule: Youth Groups and Charivaris in Sixteenth-Century France', *Past and Present*, 50 (1971), 41–75.

wife beater served the same purpose: regulation through humiliation. Thus, two of the cases cited had the victims initiating the proceedings, but others had family members or the court doing so.

Given familial involvement in incidents of spousal abuse, it is striking to remark that not one of the child assault cases was brought against a parent. In the first two cases, the parents of beaten children accused others of assault. Likewise, the third trial had a child or his representative denouncing a non-relative for the assault. This, combined with a total lack of other evidence, leads us to conclude that the court never prosecuted parents for beating their own children. While it may have occasionally felt comfortable penetrating the home in order to regulate marital issues — matters intimately connected to property and social stability — it did not have the same need to protect children from parents. Since no property was involved and social stability was unthreatened by corporal punishment of one's own child, there was no reason to challenge parental prerogative. Moreover, while women existed in several spheres simultaneously and drew upon different sources of support and protection, children did not. Their interests were largely guarded by their parents. Beating a child did not, therefore, run the risk of incurring the wrath of extended family.

The outcomes of the three primary assault cases against minors demonstrate the relative insignificance given these matters by the court and support the above logic. In the first case, a woman admitted to assaulting another whom she claimed had beaten her child. The court never pursued that allegation. In the second, a man accused a woman of beating his wards but the case was dismissed for lack of evidence. Only in the third case did the court act with gravity, employing a doctor and investigating. Since the accused freely confessed, there can be no doubt that it was investigated as a result of the severity of the attack. So, those few trials which mention juvenile beatings do so almost incidentally. This hints that such events were routine and outside of the sphere of criminality. Thus, the pseudo-parental cleric accused of raping his servant denied that charge but confidently stated his paternalistic prerogative to beat her. Child assault was routine and not criminal. These sources confirm Hanawalt's statement that society only took notice of extreme cases.

The juvenile rape cases support the fact that the court protected minors from extreme molestation. At the same time, instances of rapes were prosecuted due to implied property damage. Even in the second case, where the victim's mental state is ambiguous, the girl's father had been defrauded. Thus, here too, the court was moved by its desire to uphold property rights.

Finally, we must consider the two child assault cases directed against women. In reading these trials, it becomes clear that enmity existed between the victims' mothers and attackers. Did women beat other women's children as a form of safer, indirect hostility? This certainly seems so. In that light, the youthful victims of abuse became pawns in a power struggle between adults.

Conclusions

Prosecutions of domestic violence hinged upon patterns of social negotiation. Men who beat their subordinates moderately and with cause were not rebuked by the court. They were allowed to do so to enforce their power. Moderate wife-beating was, therefore, a legitimate means of resolving conflict. By the same token, parents who beat their children were never prosecuted. Moreover, the court showed little inclination to prosecute adults who beat the children of others, save in one case which resulted in near-death.

The court was moved to act when excess was demonstrated. Men who caused severe physical damage, who beat when drunk, who endangered a foetus, or who raped children suffered criminal prosecution. They had the ability to use force to negotiate power only up to a point. Beyond that point, the court perceived a threat to social stability and prosecuted.

In the case of spousal assault, a threat to stability was also perceived when property was threatened or whenever extended networks became offended. Both these criteria jeopardized stable marriages and led potentially to vendetta. So, the court allowed relatives to denounce when they felt their kin were wronged; this was an excellent measure of when matters were becoming potentially explosive. It was also sensitive to acts taken by members of the community who intervened in domestic violence. When those outside the household did intervene, the court was forced to act. For, through the inevitable ensuing husbandly retaliation, a new grudge was forged in the social fires. In effect, by enmeshing themselves in other peoples' business, Good Samaritans, whether kin or not, forced the court to deal with an issue perhaps otherwise ignored.

So, the 'reasonable limits' placed upon legitimate beaters were dictated not only by the degree of violence inflicted but also by the social relationships implicated. Since children benefited from fewer social relations than did wives, they were more judicially vulnerable to beatings.

The intervention of extended family members or even seeming strangers in cases of wife abuse leads us to question the usefulness of private-public constructs for analysis. Clearly, wife assault could invite intervention from those who should not have been involved. Similarly, the beating of a child by a stranger or the abuses inflicted by women upon other women's children raise doubts about concepts of private space. Familial, communal, or curial involvement in seemingly private relationships shows them to be connected to wider social dynamics.

Late medieval Provençal justice assigned marked meanings to assaults between spouses and children. It considered mundane assaults to be necessary and permissible. As such, these acts have left little trace in the documentation. At the same time, however, death need not have resulted in order for this norm to have been contravened. There are clearly records of less extreme assaults which were deemed unacceptable. By previously focusing on the most extreme examples, medievalists have situated the boundaries of judicially and socially acceptable abuse far beyond their

actual placement. In looking to less extreme cases, it has been demonstrated that the limits upon acceptable use of force between family members were not nearly so drastic. In addition, by studying where those limits existed in the social space, the wide-reaching implications have been clarified. Violence was not a private matter between husband and wife, adult and child. It involved others, some with vested interests, and some who saw it as a communal affront. This implicated a wider web of individuals than we had previously appreciated. Still, the scant evidence provided here should be taken merely as a starting point to re-evaluate where acceptable limitations upon force were placed. Only through cataloguing ordinary cases of domestic violence will we be able to accurately evaluate their role in people's daily lives at the dusk of the Middle Ages.

Not Just a Family Affair: Domestic Violence and the Ecclesiastical Courts in Late Medieval Poland

MARTHA A. BROŻYNA

In the early fourteenth century, Peregrine of Opole, a Dominican friar, delivered a sermon discussing the different types of conflicts between husbands and wives, and gave advice on how to avoid them. Directing his speech towards the men, he stated that a husband 'ought never say bad things to her [his wife] or beat her [. . .]. But unfortunately many, after being in the tavern, become angry and beat their wives'. In a passage from another part of the same sermon, Peregrine observed that many men 'use their wives' dowries for foolish or suspicious purposes' or deprive their wives 'of clothing, food, drink, and comfort'. Finally, he said, 'many men do not permit their wives access to their property, and so their children often have to do without basic necessities'.[1]

Peregrine probably witnessed many such abuses take place between husbands and wives, thus inspiring his sermon. Although churchmen like Peregrine defended women against their abusive spouses, he and others like him often spoke out only against extreme forms of cruelty. In the Middle Ages, most people viewed aggression differently from the way people do today. First, they did not always consider violence to be bad. If executed by an authority figure such as a father, husband, or schoolteacher for 'good reason', it was often deemed to be a positive form of discipline.[2] Second, most medievals differentiated between sporadic acts of violence

[1] Jerzy Wolny, 'Exempla z Kazań Niedzielnych Peregryna z Opola', in *Kultura Elitarna a Kultura Masowa w Polsce Późnego Średniowiecza*, ed. by Bronisław Geremek (Wrocław: Zakład Narodowy Imienia Ossolinskich Wydawnictwo, 1978), pp. 243–82 (pp. 249–50).

[2] Barbara A. Hanawalt, 'Violence in the Domestic Milieu of Late Medieval England', in *Violence in Medieval Society*, ed. by Richard Kaeuper (Woodbridge: Boydell, 2000), pp. 197–214 (p. 199).

and outright cruelty. The occasional slap, shove, or pulling of hair was not perceived to be aberrantly violent behaviour.[3] Medieval society considered violence between husbands and wives to be a normal occurrence unless it was particularly brutal or deadly. Finally, certain types of actions, such as marital rape or verbal or psychological abuse, which most people today consider to be domestic abuse, were rarely considered such in the Middle Ages.[4]

The goal of this essay is to examine the Polish church's position on spousal cruelty in the Late Middle Ages. First, it will examine the attitude of canon law towards domestic violence, which focused mainly on husbands physically harming their wives. Second, it will look at the types of cases brought before the Polish ecclesiastical courts pertaining to physical altercations between spouses and the way courts ruled in these cases whenever verdicts are preserved in the records. Moreover, it will also look at the handful of cases which allude to mental abuse. Finally, it will compare the Polish records and those from western Europe.

The time frame of this study is the fifteenth and early sixteenth centuries, and the sources used are act books from three areas of Poland — Lwów in the east (modern day Lviv presently in Ukraine), Little Poland (Małopolska) located in the south, and Great Poland (Wielkopolska) in the west. The court records from Poland indicate that litigants in domestic violence suits came from all strata of medieval society. The records usually categorize litigants as noble, townsperson, merchant, or by trade (tailor,[5] silk-weaver[6]). In many cases, however, the court entries do not state the social background of the litigants, so it is almost impossible to determine which part of medieval society utilized the ecclesiastical court system most frequently.

The Church made clear its stance on the relationship between husband and wife very early in its history, and men undoubtedly had the upper hand. In the Letter of St Paul to the Ephesians, St Paul instructed, 'Wives, be subject to your husbands as you are to the Lord. For the husband is the head of the wife just like Christ is the head of the Church, the body of which he is the Saviour. Just as the Church is subject to Christ, so also wives ought to be, in everything, to their husbands' (Ephesians 5. 22–24). Although this passage illustrates that women should obey their husbands, the subsequent passage from the same chapter instructs that a husband should not abuse his position as patriarch of his home: 'Husbands, love your wives, just as Christ loved the Church and gave himself up for her [. . .] husbands should love their wives

[3] L. R. Poos writes that medieval society expected husbands to be violent towards their wives to some extent as part of their authority: 'The Heavy-Handed Marriage Counsellor: Regulating Marriage in Some Later-Medieval English Local Ecclesiastical-Court Jurisdictions', *The American Journal of Legal History*, 39 (1995), 291–309 (p. 306).

[4] Hanawalt, 'Violence in the Domestic Milieu', p. 201.

[5] Bolesław Ulanowski, ed., *Acta capitulorum nec non iudiciorum ecclesiasticorum selecta*, vol. III (Kraków: Nakładem Akademii Umiejętnosci, 1908), no. 600.

[6] Wilhelm Rolny, ed., *Acta officii consistorialis Leopoliensis antiquissima*, vol. II (Lwów: Nakładem Towarzystwa Naukowego, 1930), no. 885.

as they do their own bodies. He who loves his wife loves himself. For no one ever hates his own body, but he nourishes and tenderly cares for it, just as Christ does for the Church' (Ephesians 5. 25–28).

Over time, canon law developed a position on the issue of domestic violence. In the first half of the twelfth century, Gratian wrote that women were subject to men, and husbands especially had moral guardianship over their wives. The husband had the legal right to enforce his instructions, even if that meant he needed to resort to force.[7] Some churchmen believed that husbands needed to oversee constantly their wives' behaviour. One particularly famous work entitled 'The Rules of Marriage' written by a Sienese friar in the mid-fifteenth century compared the husband's disciplinary role in just such a way.[8] Friar Cherubino wrote that if a husband's reprimands go unheeded, he should scold, bully, and even terrify his wife. And if this still does not work, he should take up a stick and beat her soundly, because, according to the friar, it is better to punish the body and correct the soul than to damage the soul and spare the body.

Although the Church's position may appear severe towards women from these examples, evidence also exists showing that many popes and canonists were sympathetic to wives who found themselves in particularly sadistic marriages. In a papal decree entitled *Ex transmissa*, Pope Alexander III (1159–81) stated that although a woman must return home if she has fled an abusive husband, the husband must first provide adequate proof ensuring that he would not harm her in the future.[9] Pope Innocent III (1198–1216) decreed in *Literas tuas* that a woman could live separately from her husband if he is so cruel that no type of security stops him. Furthermore, canonists such as Bernard of Parma and Cardinal Hostiensis supported marriage separation on the grounds of cruelty. These canonists were following Roman law, which allowed for divorces in such situations.

This essay has thus far looked at domestic abuse in a theoretical light through instructions and laws. But how did domestic violence actually play out before the ecclesiastical courts in Poland? Marital disputes which came before the court regarding claims of domestic violence alone were rare. Less than 10% of the marital cases brought before the courts actually contained domestic abuse as one of the complaints. When these cases did appear, they usually involved wives petitioning the court to allow them to separate themselves from their abusive spouses. Husbands often defended their actions by accusing their wives of infidelity. In a case from Lwów from 1484, Katherine argued that her husband had beat and wounded her. Her

---

[7] James A. Brundage, 'Domestic Violence in Classical Canon Law', in *Violence in Medieval Society*, ed. by Kaeuper, pp. 183–96 (p. 184).

[8] Cherubino da Siena, 'Regole della vita matrimoniale', in *Not in God's Image: Women in History from the Greeks to the Victorians*, ed. by Julia O'Faolain and Lauro Martines (New York: Harper and Row, 1973), p. 177.

[9] Brundage, 'Domestic Violence', pp. 188–89.

husband admitted to these actions, but claimed that he believed his wife had committed adultery, and his violent reaction was a result of his losing his temper rather than malicious intent.[10] In another case from Lwów from 1490, John came to court accusing his wife, Katherine, of adultery. Katherine denied this claim, and she also stated that her husband beat her badly causing severe bruising.[11]

The circumstances surrounding violent encounters between husbands and wives show quite clearly that violence was a part of marital turmoil and accepted as a fact of life. In a case from Lwów from 1492, Margaret took her husband, Albert, to court. She claimed that he beat her and threw her out of their home without just cause and blame. Albert defended his actions by arguing that Margaret committed adultery.[12] Margaret's use of the phrase 'without just cause and blame' (*minus iuste et sine culpa*) and Albert's reasoning indicate that a husband's violent action towards his wife was acceptable under certain circumstances, such as infidelity. In another case from 1493, Elizabeth sought a divorce from Jacob for three reasons — lack of marital affection, frequent beatings, and adultery committed with numerous women.[13] This case developed over a period of several months before the Lwów court. In one testimony, Jacob relayed at great length how long he and Elizabeth had been married and the number of children they had together, probably in hopes of convincing the court of the stability and permanence of their marriage. Moreover, Jacob denied committing adultery.[14] In this series of testimonies, however, Jacob never addressed the issue of whether or not he beat his wife. The silence in his testimonies suggests that the issue may not have been considered important enough to address, and ended up being forgotten.

In the majority of cases, however, violent outbreaks between spouses were often tied up with other marital disputes. In certain cases, it seems that litigants were merely citing issues of adultery or consanguinity simply to obtain dissolutions of their marriages when, in actuality, it was the intolerable abuse which was the real problem in the marriage. In 1489, Martin brought his wife Katherine before the Lwów court for not residing with him. Katherine argued that she was related to her husband in the second degree of consanguinity and asked for a separation.[15] She also added that Martin beat her. One can hypothesize that Katherine surely must have been aware of her blood ties to Martin before she married him because they were so closely related. Her real reason for becoming estranged from her husband was probably his violent behaviour. Katherine may have resorted to the argument of

[10] Wilhelm Rolny, ed., *Acta officii consistorialis Leopoliensis antiquissima*, vol. I (Lwów: Nakładem Towarzystwa Naukowego, 1927), no. 925.

[11] Rolny, *Acta officii*, vol. II, no. 220.

[12] Ibid., no. 885.

[13] Ibid., no. 978.

[14] Ibid., no. 1009.

[15] Rolny, *Acta officii*, vol. I, no. 2605.

blood relations as marital impediment only when Martin initiated legal action to force her to resume living with him as his wife.[16]

In other cases, the pretexts for divorce were even more evident. In 1498, Katherine sought a separation from her husband, Lawrence, after twelve years of marriage. She argued that on two separate occasions, Lawrence cohabited with two different women and even fathered children with one of them. Yet there was more to Katherine's claim. She also stated that Lawrence treated her cruelly, going as far as cutting off her finger.[17] Although the adultery must have served as part of the reason for Katherine to seek a separation, the fact that Lawrence mutilated her body and physically abused her in other ways must have been the real motivation for Katherine to cut all ties from Lawrence.

In many cases, the courts took into account the violence between husband and wife when rendering their verdicts in cases pertaining to marital impediments. In 1473, Anne came to the Gniezno court in hopes of obtaining a separation from her husband, Matthew, because of his impotence. She also claimed he beat her to the point that 'blood flowed and great pain was caused to her'.[18] The medical examination proved that Matthew was indeed impotent, but the court did not require the couple to stay together for three years, as it would under normal circumstances, to make certain that the impotence was permanent. Instead, the court immediately granted Anne the separation she sought and gave her the right to remarry. In this particular case, the court evidently took into consideration the abusive nature of the relationship and therefore bent its rules for granting a separation for impotence in order to spare Anne any more torment.

Finally, some cases illustrate how a few women became trapped in a cycle of abuse, and the courts stepped in to alleviate their situation. In 1494, Sophia came to the Lwów court in order to get Martin to formalize their marriage before the Church. The two had lived together for some time, and Sophia was pregnant. The child, however, did not survive. Sophia admitted that throughout her pregnancy, Martin beat her and threw rocks at her causing the child to be stillborn. Nevertheless, Sophia apparently forgave Martin because she sought to marry him claiming that he had promised to have her as his wife.[19] Theoretically, the two were married in

[16] This tactic of defence is similar to the ones found in the letters of remission from sixteenth-century France that Natalie Zemon Davis discusses. Although they dealt mostly with homicides, these letters were often framed in such a way as to show that the guilty party's actions were unplanned or somehow excusable by the law: Natalie Zemon Davis, *Fiction in the Archives: Pardon Tales and their Tellers in Sixteenth-Century France* (Stanford: Stanford University Press, 1987), p. 7. In this case, it seems that Katherine framed her defence around her ignorance of her blood relations with Martin so that she would not have to resume living with him.

[17] Gniezno, Poland, Archiwum Archidiecezjalne, MS Acta causarum consistorii (hereafter A Cons A) vol. 67, fol. 31^{v}.

[18] A Cons A, vol. 53, fol. 108^{r}.

[19] Rolny, *Acta officii*, vol. II, no. 1290.

accordance with canon law because Martin had promised to marry Sophia and this promise was then made permanent by their subsequent sexual relations.[20] The court did not, however, order Martin to marry Sophia within the Church. Instead, the court ordered that Martin pay Sophia monetary damages under the penalty of excommunication.[21] The court must have realized, marital promises or not, that this relationship was not a good one for Sophia. Thus, the courts not only did not strictly uphold the law, but also took informal role as arbiters.[22]

Even if there was no history of violence in the marriage before a woman brought her husband to court, the Polish courts often speculated that a woman might face retribution from her husband in the future, particularly if the wife's complaint had been about impotence. The courts, therefore, tried to protect women from their angry spouses. In a case from Kraków from 1410, Dorothy alleged that her husband, Nicholas, was impotent, and she sought to be separated from him.[23] The medical examination ordered by the court proved that Nicholas was not impotent, and the court ruled that they remain together. Yet before the court allowed the two to resume cohabitation, Nicholas first had to swear an oath guaranteeing Dorothy's safety under the penalty of thirty marks.

Women were not the only ones to make claims of maltreatment by spouses. Men also filed complaints of domestic abuse before the ecclesiastical courts against their wives, although their complaints were different from the women's. Men's testimonies show that they usually feared their wives had tried to or were trying to kill them by poisoning them. One example comes from Kraków from 1456. Jacob sought a separation from Margaret on the counts of bigamy and adultery. Jacob started his relationship with Margaret when she was still married. At some point during their relationship, Margaret poisoned her husband.[24] The testimony does not make clear if Jacob knew of the murder when he married Margaret. In his testimony Jacob focused on his adulterous relationship with Margaret as a barrier to their marriage rather than on the murder. According to canon law, any relationship that started out as an adulterous affair became an impediment for future marriage. The Church, however, having great difficulty in enforcing this rule, established two extra criteria that prohibited a married person from contracting marriage with his lover in the event of his spouse's death — knowledge of the existing marriage by both offenders and either the plotting of the death of the spouse or a promise of marriage having been

[20] R. H. Helmholz, *Marriage Litigation in Medieval England* (Cambridge: Cambridge University Press, 1974), pp. 34–35.

[21] Rolny, *Acta officii*, vol. II, no. 1292.

[22] Helmholz, *Marriage Litigation*, p. 101; Poos, 'Heavy-Handed Marriage Counsellor,' p. 292.

[23] Bolesław Ulanowski, 'Praktyka w Sprawach Małżenskich w Sądach Duchownych Dyjecezyi Krakowskiej w Wieku XV', *Archiwum Komisyi Historycznej*, 5 (1885), 87–195 (no. 4).

[24] Ulanowski, 'Praktyka', no. 126.

made during the spouse's life.[25] Jacob, therefore, used this as his defence in order to avoid possibly being Margaret's next victim.

Clearly, if a woman really wanted to harm her husband, the most convenient way was by poisoning him. After all, women did the food preparation and could easily slip something into their unsuspecting husbands' dinner or drink. Nevertheless, accusations of attempted poisonings leave much room for speculation. Many such supposed attempts at husbands' lives could have been in actuality love potions or folk remedies gone wrong. Probably one of the most famous examples of this is a case from France from the early fourteenth century when Mahaut of Artois was charged with killing Louis X with a love potion made up of toads and snakes.[26] From the Polish records, however, it is usually difficult to determine if women accused of poisoning were practising sympathetic magic or poisoning because the court records usually only use the phrase 'to poison' (*intoxicare*) without providing any details of what exactly this attempt entailed.

One case, however, from 1497 from Włocławek stands out because of the copious details it provides. John came to court seeking a separation from Anne claiming that she had attempted to poison him. According to his testimony, it started when she gave him grated spiders in his drink. Then, she fed him poisonous mushrooms, which made him ill. Finally, she put some of her menstrual blood in his drink.[27] While the mushrooms may have been an attempt on her husband's life, the menstrual blood was most likely some sort of love potion. The spiders may also have been part of some love potion.[28] Unfortunately, Anne's testimony exists only in fragmented form making it impossible to discern what exactly her intentions were.

Another explanation about men's frequent accusations of poisoning, and a more likely one, was that these men were merely playing on the ancient stereotype about women. Throughout the Middle Ages, moralists often perceived women as particularly prone to believing in superstitions and practising magic because of their presumed moral and intellectual weakness.[29] They were, therefore, seen as quite willing and able poisoners. Thus, a man who behaved abusively towards his wife could frame his defence before the court by utilizing this stereotype.[30]

---

[25] Helmholz, *Marriage Litigation*, p. 94.

[26] Richard Kieckhefer, 'Erotic Magic in Medieval Europe', in *Sex in the Middle Ages: A Book of Essays*, ed. by Joyce E. Salisbury (New York: Garland, 1991), pp. 30–55 (p. 37).

[27] Ulanowski, *Acta capitulorum*, vol. III, no. 600.

[28] Although he makes no reference to spiders, Richard Kieckhefer does note that ground earthworms mixed with ale were used both as a medicinal treatment and a love potion: Richard Kieckhefer, *Magic in the Middle Ages* (New York: Cambridge University Press, 1989), pp. 67, 83.

[29] Kieckhefer, *Magic in the Middle Ages*, p. 187.

[30] Natalie Zemon Davis writes that remission narratives often recreated for their readers a situation where the defendant would seem justifiable in his actions: Davis, *Fiction in the Archives*, p. 37.

In addition to physical threats and altercations, the court records also show that 'mental abuse' existed in some marriages, but this insinuation was almost always coupled with physical abuse. In an unusual case from Lwów, from 1483, John came to court seeking a separation from his wife, Anne.[31] First, John explained that his wife was physically ill; she suffered from incontinence. Second, John explained that she beat him with a stick, which caused him to have many bruises, and he felt his life was threatened. Anne's defence was that John beat her first. Unfortunately, the court's verdict in this case has been lost, but the court's interesting instructions to John exist in the records. The court stated that John should be more understanding and supportive towards his wife, probably referring to her illness.[32]

Like physical abuse, claims of mental abuse came from all segments of society, yet they were most prevalent from the nobility. In her study of the noble family in medieval Poland, Maria Koczerska noted that in several cases, noblewomen came to court arguing that they were being maltreated because their husbands openly kept concubines.[33] Noblewomen also came before the courts with other interesting complaints. In 1448 from the diocese of Płock, Adam defended himself against claims that he wounded and tormented his wife, Katherine. Moreover, he also stated that he never made her take the animals out to pasture or force her to do any other humiliating labour.[34] In 1484, a woman accused her husband of keeping her and her child in poverty.[35] Koczerska appears to suggest that if a man publicly humiliated his wife, forced her to do menial tasks, or did not support her and her children, he was perceived as being just as abusive as the man who beat his wife.

Although there was no comparative expression for 'mental abuse' used in the Middle Ages, certain expectations existed in both canon law and within society as to how a husband should treat his wife. These expectations were defined in the concept of marital affection (*affectio maritalis*).[36] The requirement of marital affection as part of a valid marriage had its roots in Roman law where it was tied with the concept of *honor matrimonii* — the manner in which a man treated his wife and the social dignity he gave her. The notion of marital affection evolved in the Middle Ages to describe how spouses should treat each other. For example, Pope Alexander III

[31] This case is examined by Agnieszka Ruszkowska in her thesis: 'Sprawy Małżeńskie w Konsystorzu Lwowskim w XV Wieku' (unpublished master's thesis, University of Warsaw at Białystok, 1996), pp. 73–74.

[32] Rolny, *Acta officii*, vol. I, nos 458, 520.

[33] Maria Koczerska, *Rodzina Szlachecka w Polsce Późnego Średniowiecza* (Warszawa: Państwowe Wydawnictwo Naukowe, 1975), p. 76.

[34] Ulanowski, *Acta capitulorum*, vol. III, no. 4.

[35] Ibid., no. 735.

[36] James A. Brundage, *Law, Sex, and Christian Society in Medieval Europe* (Chicago: University of Chicago Press, 1987), p. 35.

insisted that spouses of lepers remain with their ailing husbands or wives.[37] The concept was further developed under Pope Innocent III and his successors to outline in greater detail what a husband was required to provide his wife: appropriate food, clothing, and housing. Moreover, husbands were also exhorted to avoid mistreating their wives. Therefore, these noblewomen probably brought their husbands into court for not fulfilling their part of the marital contract, and not necessarily for cruelty.

Nevertheless, physical violence was the most common type of domestic abuse complaint before the courts in medieval Poland. One woman's testimony clearly demonstrated this when she claimed her lover 'beat her as if she were his wife'.[38] If the ecclesiastical courts did not allow for excessive violence between spouses, but did not prohibit it totally, then where was the boundary? How much violence was too much? At what point did the sporadic physical altercation become out-and-out cruelty? The Polish records contain a handful of cases wherein the courts provided guidelines as to how much physical 'discipline' was permissible.[39]

In a case from 1473 from Łowicz, Margaret brought her husband John to court for beating her.[40] The court ordered that John must guarantee his wife's safety under the penalty of ten marks or he would be excommunicated. The court then proceeded to lecture John. It instructed that John could correct his wife's behaviour, but only in a thoughtful, mild way. According to the court, a husband can chastise his wife calmly, but he must never flog or beat her in such a way as to cause blood flow or wounds. Moreover, the court forbade a husband from beating his wife with a branch or wounding her with a knife, axe, or sword. Although this instruction aimed to defend women, it still permitted certain types of physical abuse that did not create visible evidence. This type of 'prohibition' opened up a plethora of possibilities in which a husband could be physically cruel to his wife as long as he left no sign of it.

The Polish ecclesiastical courts also cited other types of prohibited punishments. For example, in a brief entry containing a decision from the Kraków court in 1410, the court stated that a husband could not punish his wife by denying her sleep or tearing her clothes under the penalty of excommunication and thirty marks.[41] In an entry from Kalisz in 1512, the court stated that a husband could neither beat his wife with a stick or knife nor stomp on her with his foot in order to punish her. Nevertheless, a husband could still discipline his wife by flogging her if she 'crossed the line'.[42]

---

[37] Michael M. Sheehan, '*Maritalis affectio* Revisited', in *Marriage, Family, and Law in Medieval Europe*, ed. by James K. Farge (Toronto: University of Toronto Press, 1997), pp. 262–77 (pp. 269–70).

[38] Bolesław Ulanowski, ed., *Acta capitulorum nec non iudiciorum ecclesiasticorum selecta*, vol. II (Kraków: Nakładem Akademii Umiejętnosci, 1902), no. 1326.

[39] Maria Koczerska mentions these cases in *Rodzina Szlachecka*, p. 75.

[40] Ulanowski, *Acta capitulorum*, vol. II, no. 900.

[41] Ulanowski, 'Praktyka', no. 2.

[42] Ulanowski, *Acta capitulorum*, vol. II, no. 1966.

How did the cases in medieval Poland compare with other areas of Europe at this time? Two types of ecclesiastical court decisions pertaining to marital cruelty existed in the West. In the English model, when the courts awarded petitioners separations in cruelty cases, the separations were usually *a mense et thoro* or separations of marital property and suspension of conjugal rights or simply separation of bed and board. In the Parisian model, courts did not grant *a mense et thoro* separations based on the grounds of cruelty, but just *a mense* separations while the couple still retained sexual rights over each other's bodies.[43]

The majority of domestic violence cases in the Polish records do not fall into either of these categories. In fact, there are only two cases involving cruelty in which these phrases are actually used. The first case comes from Poznań from 1483.[44] Andrew accused his wife of adultery and sought an *a thoro* separation. She denied that she committed adultery, and stated that Andrew had beat her with sticks, canes, and even a sword all over her head and body and left her half-dead. The decision of this case has been lost. In another case from Lwów from 1492, Katherine sought an *a thoro* separation from her husband because he both beat her and committed adultery.[45] This case carries through several entries in the act books in which Matthew brought in a series of witnesses to testify on his behalf.[46] The court, however, ultimately sided with Matthew, and Katherine's request for a separation was denied. In both these *a thoro* cases, litigants sought physical and sexual separation from their spouses and made absolutely no mention of property as the litigants in the English or Parisian cases did.

Both Richard Helmholz and Barbara Hanawalt have commented that clergy in the courtroom acted more like stern and intrusive marriage counsellors acting as arbiters rather than just judges.[47] The same can be said for the judges in the ecclesiastical courts of late medieval Poland. In the majority of cases pertaining to domestic violence, the courts did not grant litigants separations, but tried to work out a compromise between them. Nevertheless, a certain contradiction existed within Church thought and practice. One the one hand, many churchmen believed a husband had the right and the responsibility to discipline his wife. On the other hand, ecclesiastical courts feared the responsibility this gave men, and so it regulated the types of punishment the husband could use.

Domestic violence was seen as a part of married life in medieval Poland, which explains why only a handful of cases pertaining solely to physical altercations between spouses appeared before the courts. It is important to note, however, that the

[43] Brundage, 'Domestic Violence', p. 191.

[44] Ulanowski, *Acta capitulorum*, vol. II, no. 1435.

[45] Rolny, *Acta officii*, vol. II, no. 808.

[46] Ibid., nos 821, 857.

[47] Helmholz, *Marriage Litigation*, p. 101; Hanawalt, 'Violence in the Domestic Milieu,' p. 204.

ecclesiastical courts and medieval Polish society as a whole did not believe that violence by a husband against his wife was excusable on all grounds. When husbands did answer to the accusations of violence against their wives, they often tried to explain why their actions were justifiable. Moreover, if a woman came to court with a legitimate complaint against her husband, such as adultery or impotence, the court often did try to provide her with some type of security in order to ensure that her husband did not bully her into withdrawing her case or torment her after the court rendered its decision. Unfortunately, many decisions in cruelty cases have been lost. Nevertheless, the fact that people did not shy away from bringing up these problems, and that the court reacted to them, indicates that abuse between spouses was not an ugly family secret meant to be kept hidden and ignored.

Conflict, Strife, and Cooperation: Aspects of the Late Medieval Family and Household*

MIRIAM MÜLLER

I

To see the concept of the peasant family purely in terms of the nucleated family inhabiting the same household masks the importance of wider kinship networks in rural communities in the Middle Ages.[1] Forging extensive groupings of kinship was an important way of ensuring support networks in an environment where famine, disease, and hunger were always a potentiality that had to be guarded and protected against.[2] The pooling of resources and establishing of cooperative networks were invaluable tools for survival, while the daily experience of agricultural production also fostered cooperative behaviour within the village.[3]

* I would like to thank all the participants of the session 'Rural Households and Families in Later Medieval England', at the International Medieval Congress in Leeds 2001 at which a version of this paper was originally presented for their comments and criticisms. I am also very grateful to Chris Dyer for all his helpful advice on the topics raised in this paper. Finally thanks are also due to the British Academy for helping to fund the original research for this paper.

[1] For discussions of these issues, see W. Seccombe, *A Millennium of Family Change; Feudalism to Capitalism in Northwestern Europe* (London: Verso, 1995), esp. pp. 27–29. See also Z. Razi, 'The Myth of the Immutable English Family', *Past and Present*, 140 (1993), 3–44 (esp. pp. 3–6); and for a discussion of functionally extended family structures in peasant society see esp. pp. 42–43.

[2] See, for example, Seccombe, *A Millennium of Family Change*, p. 22.

[3] See Seccombe, *A Millennium of Family Change*, esp. pp. 22–23 and pp. 27–29; Z. Razi, 'Family, Land and the Village Community in Late Medieval England', *Past and Present*, 93 (1981), 3–36 (esp. p. 10 and p. 16).

As the formation of kinship ties is interlocked with the economic realities of everyday life, the medieval family has to be examined in the political, social, and economic context within which it operated. These factors include local customs, the influence of markets, industries, and above all, the nature of the manorial context within which the family was located. The peasant household represented not only the basic unit of peasant production, but feudal dues, like rents in cash, kind, and labour, were exacted by the lord from the peasant holding via the head of the household.[4] The seigniorial exaction of merchets, for example, impacted directly on the family, while seigniorial policies on issues such as the subdivision of holdings and inter-peasant land markets, which hinged on seigniorial demands for labour and rent, had consequences for the way in which individual families were able to use their resources and organize production. At the same time peasant households themselves were not egalitarian institutions. Hierarchical structures governed families, defined by age, gender, and experience, which provided arenas for potential conflict.[5]

Manorial court records have for some time now been recognized by historians as very fruitful sources for studying medieval kinship networks in peasant communities. They allow the reconstruction of familial relationships, both vertically and horizontally, and facilitate insights into the dynamics of kinship networks and the household. It is therefore possible to study patterns of strife and cooperation through cases such as debt, pledging, the hue and cry, bloodshed, land transfers, land disputes, and intra-familial strife.[6] However, the use of manorial court records for the study of peasant families and kinship is not unproblematic. Historians have been at pains to point out the problems of reliably identifying familial relationships through surname evidence, for example. Especially in the pre–Black Death period surnames were not yet fixed, which makes the task of tracking individuals through court records problematic.[7]

---

[4] See, for example, R. H. Hilton, 'Feudalism in Europe: Problems for Historical Materialists', *New Left Review*, 147 (1984), 84–93, reprinted in his *Class Conflict and the Crisis of Feudalism: Essays in Medieval Social History* (London: Verso, 1990), 1–11 (pp. 2–3).

[5] See, for instance, Seccombe, *A Millennium of Family Change*, pp. 30–36, for a discussion on gender and power relationships between husband and wife.

[6] See, for example, Z. Razi, *Life, Marriage and Death in a Medieval Parish: Economy, Society and Demography in Halesowen, 1270–1400* (Cambridge: Cambridge University Press, 1980); Razi, 'The Myth of the Immutable English Family', pp. 5–6; R. M. Smith, 'Kin and Neighbors in a Thirteenth-Century Suffolk Community', *Journal of Family History*, 4 (1979), 219–56, reprinted in *The Sociology of Rural Communities*, vol. I, ed. by G. Crow (Cheltenham: Edward Elgar, 1996), pp. 244–81; also influential were the studies of the Canadian scholars based in Toronto, such as E. Britton, *The Community of the Vill: A Study in the History of the Family and Village Life* (Toronto: Macmillan of Canada, 1978), and J. A. Raftis, *Warboys: Two Hundred Years in the Life of an English Mediaeval Village* (Toronto: Pontifical Institute of Mediaeval Studies, 1974).

[7] Smith, 'Kin and Neighbors', pp. 247–48; Razi, *Life, Marriage and Death*; and for the problems associated with the reconstitution of peasant families through the use of surname

One might also add that the consistent use of surnames in individual families probably depended to some degree on their status in the village community. Among the poorer peasantry one is less likely to encounter a consistent use of surnames to identify family membership. These people perhaps had less of a stake in the preservation of their family name than those belonging to the richer, more dominant families who held larger acreages of land and were likely to have a history of involvement in the public positions of manorial offices, such as reeves and haywards.

Another problem of the court records is that they were part of a seigniorial institution, and as such primarily concerned with recording issues which impinged on lordship or were of interest to the lord, such as land transfers and failures to perform customary services for the lord. Therefore there was less pressure on the community to report familial disputes in the court of the manor, and as guilty parties had to pay an amercement in the court to the profit of the lord, this probably acted as an additional incentive to resolve cases of familial conflict outside of the formal framework of the manor court.

It is the aim of this essay to explore and identify some areas of familial and household tension and cooperation in two rural manorial communities in Suffolk and Wiltshire in the fourteenth century and place these within their socio-economic context. The first of these village communities, Brandon in Suffolk, was a manor held by the Bishop of Ely, located in the thinly settled Brecklands area in north-west Suffolk close to the border to Norfolk. The second manor, Badbury, was held by the Abbot of Glastonbury and lay in a similarly more sparsely settled area of Wiltshire just south of Swindon.

II

At the Wiltshire manor of Badbury seigniorial policy was pitted against any subdivision of holdings and insisted upon keeping large customary holdings of twenty acres or more, which dominated the manor's tenurial structure, intact and indivisible, even after the Black Death. At the same time the Abbot of Glastonbury was intolerant of inter-peasant land markets.[8] These inflexible policies ensured, especially before the Black Death, that young people were often forced to wait for their parent's retirement

evidence, see also Z. Razi, 'The Toronto School's Reconstruction of Medieval Peasant Society: A Critical View', *Past and Present*, 85 (1979), 151–56.

[8] For a fuller discussion of the nature of the peasant land markets in Brandon and Badbury, see M. Müller, 'Peasant Mentalities and Cultures in Two Contrasting Communities in the Fourteenth Century: Brandon in Suffolk and Badbury in Wiltshire' (unpublished doctoral thesis, University of Birmingham, 2001), esp. chap. 5; see also, for seigniorial intolerance to inter-peasant leasing at some Glastonbury manors, H. S. A. Fox, 'Exploitation of the Landless by Lords and Tenants in Early Medieval England', in *Medieval Society and the Manor Court* ed. by Z. Razi and R. M. Smith (Oxford: Clarendon Press, 1996), pp. 518–68, esp. p. 535.

before setting up their own households. The positive choices open to peasants in the allocation of land to their offspring by the adoption of partible strategies via the land market, for example, were therefore limited. Setting up a new household usually coincided with entering a holding and meant both the escape from paternal authority and the full assumption of adult responsibilities.[9] Consequently the scope for inter-generational tension as well as sibling strife was potentially great where young men and women had to wait for land to become available or where familial resources had to be distributed unequally between children.

At the manor of Brandon in Suffolk a relaxed seigniorial policy concerning the peasant land market led to a varied and dynamic picture of household formations, while Brandon's urban features, a regular market, and the presence of crafts meant that young people could follow a variety of occupations. The approach of the lord of the manor to its customary tenurial structure was therefore also marked by some degree of flexibility in contrast to Badbury. At Brandon subtenants were tolerated and customary tenants were able to enter short- and long-term leases with each other as long as these were recorded in the manor court.

The system of inheritance in both Brandon and Badbury was male primogeniture. But while at Brandon, in the absence of sons, daughters inherited equally, in Badbury it was the eldest daughter who inherited and who, upon entering her holding, was not yet allowed to be married.[10] This probably reflected the lord's desire to exercise some control over the fertility of his female villein tenants.[11]

Medieval society was unquestionably male dominated and upon marriage a woman's identity was usually subsumed under that of her husband. Manor court rolls reflect the hierarchical nature within peasant households, recognizing the male head of the family as wielding the authority over his wife, children, and, if there were any, servants.[12] Inequality between the genders was highlighted by referring to women as being either the daughter, servant, or wife of the head of the household.

While women were integral to the economic productive processes of the peasant holding, inequality did harbour tensions. However, strife between husband and wife rarely surfaced in the court records, and much of this sort of conflict probably went

[9] See, for example, L. R. Poos, *A Rural Society after the Black Death: Essex 1350–1525* (Cambridge: Cambridge University Press, 1991), p. 141.

[10] Longleat House, Glastonbury Abbey Documents (hereafter LGAD), MS 11223, fol. 37.

[11] See, for example, C. Middleton, 'Peasants, Patriarchy and the Feudal Mode of Production in England: A Marxist Appraisal: 1 Property And Patriarchal Relations within the Peasantry', *Sociological Review*, 29 (1981), 105–33; C. Middleton, 'Peasants, Patriarchy and the Feudal Mode of Production in England: 2 Feudal Lords and the Subordination of Women', *Sociological Review*, 29 (1981), 137–54; M. Müller, 'The Function and Evasion of Marriage Fines on a Fourteenth-Century English Manor', *Continuity and Change*, 14 (1999), 169–90.

[12] For a discussion of the status of women in medieval courts, see *Women in England, c. 1250–1525*, *Documentary Sources*, ed. and trans. by P. J. P. Goldberg (Manchester: Manchester University Press, 1995), pp. 35–43.

on behind closed doors. Not a single case of assault or bloodshed between husband and wife was recorded in the court rolls of either Brandon or Badbury throughout the whole of the fourteenth century.[13]

However, women were not without rights where their own land was concerned, and at Badbury it was even the case that men who chose to marry heiresses or propertied single women usually adopted their surnames. Similarly in disputes over land, conflict between husband and wife did occasionally emerge in the court records. In 1333 in Badbury, Margery Blosme claimed in court that her husband, Robert, against right, had alienated one toft and three acres of land to Walter Blosme. Her argument was that Robert had no right to 'contradict her in this', as her father had given her, Margery, the holding by licence of the court, and she wanted to get the holding back from Walter. Walter argued that both Margery and Robert had given him the holding jointly, but the court upheld Margery's claim and ordered Walter to hand the holding back to Margery, amercing him for unjustly withholding it.[14] In this case therefore, the woman's right to her land overrode the actions of her husband.[15]

Familial cooperation as well as conflict often became evident upon the death of a tenant and was therefore intertwined with the families' most important economic resource, namely land.[16] In Brandon, encouraged by a relaxed seigniorial policy on the peasant land market, parents often used partible holding strategies in inter vivos transfers to provide for their children.[17] Although this distribution tended to be unequal and sons received more than daughters, especially the firstborns, it was not uncommon for daughters to be given a share of the holding. When Robert Archer was noted as 'infirmus' in the court rolls in 1329 he surrendered one virgate of land and one toft for the benefit of his son William and half a toft for the benefit of Beatrice his daughter.[18] At the manor of Halesowen, Razi similarly found a strong commitment among both parents and inheriting brothers and sisters to supply less fortunate siblings with some land.[19]

Parents also sometimes went to great length to provide for their offspring. John Gybbes of Badbury paid 2*s*. in 1348 in order to have an inquiry into the status of one

---

[13] See also on this B. A. Hanawalt, 'The Peasant Family and Crime in Fourteenth-Century England', *Journal of British Studies*, 13 (1974), 1–18 (p. 5).

[14] Chicago, University of Chicago Library, Sir Nicolas Bacon Collection of English Court and Manorial Documents (hereafter UCBC) Roll 291, m. 4^{v}.

[15] It seems that Margery's husband was still alive when his wife made this claim.

[16] On land and family relationships, see Hanawalt, 'The Peasant Family and Crime', pp. 6–8.

[17] Inter vivos transfers of land are transactions conducted during the lifetime of the parties involved.

[18] UCBC Roll 289, m. 5.

[19] Razi, 'Family, Land and the Village Community', pp. 8–9. For the peasantry's preference for partible inheritance, see also C. Dyer, *Making a Living in the Middle Ages: The People of Britain 850–1520* (New Haven: Yale University Press, 2002), pp. 159–60.

virgate of land, held by Philip le Soutere. John successfully recovered the holding only to hand it over to his son William.[20] These actions were probably not motivated purely by self-interest. Children did provide for their parents in old age, but Badbury's peasants sometimes displayed forward thinking when it came to their aspirations for their offspring. Thus when Badbury's peasants revolted to improve their condition in 1348, by demanding that their manor was ancient demesne, they allegedly declared that they did this for the benefit of their heirs.[21]

Due to the nature of property relationships and inheritance customs, non-inheriting brothers from richer families could become smallholders at either manor, even if some families were able to soften the blow of primogeniture through some partible strategies. For example at the manor of Badbury, William was the middling of three sons of William atte Grene. The eldest, John by name, held one messuage and one virgate, the youngest brother died landless in 1348, and William, who died in 1375 at the age of about forty-three, held only five acres of land.[22]

The fluidity apparent in the fortunes of individual family members makes it unlikely that there was a social gulf between the richer and the poorer tenants. Instead such social divisions tended to be bridged by familial cooperation and kinship networks. Therefore, these supportive structures highlight the important role that the security of wider kinship networks played in medieval society. The main difference between smallholders and richer peasants was that the latter would have found it easier to accumulate the necessary land or cash to provide for non-inheriting children. Children of smallholders were therefore more likely to be trapped in poverty, as they were less likely to be able to fall back on richer relatives.

In both manors the chances of brothers picking up some land increased after the Black Death, when more land was available. When John Gevene of Brandon died in 1351, he left his eldest son, Thomas, one cottage in villeinage. Thomas duly took the cottage and in the same court surrendered it into the hands of the lord for the benefit of William Gevene, his brother, who paid 6*d*. for an entry fine.[23] Thomas either wanted to provide for his non-inheriting brother or, more likely perhaps, carried out his father's will.

When William Clerk of Brandon died in 1322, his son Laurence received a piece of land of unknown size, and another son, John, picked up one messuage, some pasture, and one acre of land.[24] Upon the death of John Clerk, the oldest of the four sons

[20] LGAD, MS 11179, fol. 30 and fol. 31.

[21] LGAD, MS 11179, fol. 31. For a fuller discussion of this revolt, see also M. Müller 'The Aims and Organisation of a Peasant Revolt in Early Fourteenth-Century Wiltshire', *Rural History*, 14 (2003), 1–20.

[22] LGAD, MS 10654, fol. 44^{v}; LGAD, MS 11179, fol. 30; LGAD, MS 11221, fol. 40.

[23] UCBC Roll 291, m. 20^{v}.

[24] UCBC Roll 289, m. 21; UCBC Roll 291, m. 1; UCBC Roll 289, m. 8; UCBC Roll 289, m. 9; UCBC Roll 291, m. 3.

of William Clerk, in 1350, Reginald inherited his brother's free messuage, which he in turn had inherited from his father.[25] By this time the availability of land allowed members of the wider kinship network to support one of the three daughters of Stephen Clerk, William Clerk's grandson. In 1353 Laurence and Gilbert Clerk, who appear to have been relatives of Stephen Clerk, handed some land to Stephen's daughter Katerina.[26] This land went to her sister Isabella upon Katerina's death in the following year of 1354, while Stephen Clerk himself provided his third daughter, Agnes, with meadow land in 1370, and he himself took up a holding of forty acres from the lord in a ten-year lease in 1374.[27]

Cooperation within wider kinship networks can also be observed in land transactions conducted via the peasant land market. At Brandon, Matilda Ope, one of two daughters of Peter Ope, acquired a licence to marry Richard Clement in 1318. Richard received half of Peter Ope's holding in 1321 after Peter's death. In 1324 Richard surrendered half a virgate of land to his younger brother Bartholomew, who in turn in 1348 leased three roods of land to another member of the Ope family, Leticia.[28]

In both manors we can observe attempts by parents or inheriting siblings to give some provision to their less fortunate non-inheriting brothers, sisters, and children. At the same time wider kinship networks can be observed to be at work in land transactions. Nevertheless, while cooperative behaviour between kin reduced and probably contained conflict, especially where the provision of land was concerned, conflict between relatives could still emerge.

Occasionally court roll entries bear witness to bad blood between family members, especially when sibling strife led brothers and sisters to take each other to court over land disputes. In such cases the homage launched an inquiry in an attempt to establish which party had custom and right on their side. In Badbury two such cases emerged in the immediate aftermath of the Black Death. In this traumatic period holdings changed hands rapidly, perhaps at times without many questions being asked about any inheritance rights to the land in question. In 1352 Margaret, the daughter of Adam Wynsom, successfully challenged the right of her sister Edith and her brother-in-law to a holding which Margaret claimed should by right be hers. Margaret had given the lord 6*s*. 8*d*. to have an inquiry to establish whether she was the closest heir 'by right of villeinage' to a tenement which Edith and her husband, Robert, held after they had received it from the Abbot of Glastonbury 'at the time of the pestilence'.[29]

Margaret claimed that she had been unaware of the grant made, and indeed custom was found to be on her side, and she won her claim.[30] However, late in the

[25] UCBC Roll 291, m. 18.

[26] UCBC Roll 291, m. 31^{v}.

[27] UCBC Roll 291, m. 34; UCBC Roll 291, m. 52; UCBC Roll 291, m. 58^{v}.

[28] UCBC Roll 289, m. 18; UCBC Roll 290, m. 2^{v}; UCBC Roll 290, m. 4^{v}; UCBC Roll 291, m. 16.

[29] LGAD, MS 11223, fol. 37.

[30] LGAD, MS 11223, fol. 37.

year of 1348 John Coleman was unsuccessful in his challenge to the right of his brother, John Abovetoun, to a holding. Coleman's claim was rejected and his brother was able to keep his tenement.[31]

It is difficult to establish how frequently these types of legal battles were linked to physical confrontations, but in the case of the Wynsoms a history of more serious conflict can be traced back to at least 1350, just after the disputed land grant had been completed. Robert Wynsom was reported to have drawn blood from William, Margaret's son, Robert's nephew, while on another occasion in the same year Margaret can be found raising the hue and cry against her brother-in-law Robert.[32]

Sibling strife did not have to be linked to land disputes to spark off violence or even bloodshed. In 1330 in Brandon, Robert committed hamsok against his brother Roger for unknown reasons.[33] Not being content with merely breaching the peace of his brother's home, Robert then proceeded to also draw blood from Roger and was amerced 12*d*. However, while siblings might have quarrelled, violence was not typically associated with such disagreements. In general open, and especially violent, confrontation between close kin was rare at both manors.

In total at Badbury between 1315 and 1403 only nine cases of bloodshed or the raising of the hue and cry was recorded between identifiable relatives, representing 5.6% of all such cases of conflict between villagers.[34] At Brandon between 1317 and 1400 the proportion of such intra-familial conflict, where it could be identified, was even lower at twelve clear cases, making up only 3.3% of the total. These figures might be compared to similar statistics gathered by Richard Smith in his study centred on the Suffolk manor of Redgrave and Barbara Hanawalt's analysis of intra-familial conflict at the manors of Wakefield and Ingoldmells.[35] At the manors of Wakefield and Ingoldmells in the later thirteenth and the first half of the fourteenth century, Hanawalt similarly noticed that intra-familial disputes were rather uncommon. She found that only 2% of conflicts involving issues such as debt, trespass, and assaults were intra-familial, while in a result very comparable to those of Badbury about 5.5% of all assaults at Wakefield and Ingoldmells were intra-familial.[36] However, in Redgrave, Smith found greater evidence for conflicts between relatives, and between the years of 1259 and 1293 a total of 15.1% of all assaults were intra-

[31] LGAD, MS 11179, fol. 30.

[32] LGAD, MS 11222, fol. 14^{v}.

[33] 'Hamsok' was a breach of the peace within the dwelling space of the household. It was usually combined with uninvited or forced entry and theft or assault. UCBC Roll 289, m. 20.

[34] In the examination of intra-familial conflict familial relationships were established through surname evidence as well as the reconstitution of individual families.

[35] Smith, 'Kin and Neighbors'; Hanawalt, 'The Peasant Family and Crime', pp. 1–18.

[36] Hanawalt, 'The Peasant Family and Crime', p. 5. Unfortunately no precise time span is given. The figure of 5.5% has been achieved through calculations from Hanawalt's Table I given in Appendix III, p. 18.

familial, while 12% of disputes, such as trespass, debt, assault, and land disputes were between relatives.[37] He suggests that one explanation for this higher level of intra-familial tension might lie with the local custom of partible inheritance among customary tenants, which may have contributed to tensions between family members as a consequence of problems with the distribution of land. Accordingly Smith also found at Redgrave a very high proportion of intra-familial conflicts concerned with land, trespass, and other moveable goods.[38]

The figures for Brandon and Badbury tentatively indicate that intra-familial strife was perhaps proportionally more common in Badbury than in Brandon. While not all of these cases can be linked clearly to disputes over land, Badbury's rigid tenurial structure and the virtual absence of a land market may have contributed to an atmosphere where open conflict between closer family members was more likely than at Brandon where more flexible tenures and a lively land market was perhaps more likely to subdue familial strife. At the same time, strife may also have been contained at both manors as primogeniture, the dominant form of inheritance at Brandon and Badbury, created a more stable mode of transmitting property from one generation to the next than Redgrave's partible inheritance.[39] This may be further supported by the comparatively infrequent incidents of land disputes between relatives at Brandon. Between 1316 and 1350 only seven clear inter-tenant land disputes are recorded, of which two concerned identifiable relatives, while in another two cases familial relationships could not be established with certainty.[40]

It has been argued that an increasing level of communal conflict and strife in the second half of the fourteenth century after the first arrival of the Black Death could be observed, representing a symptom of the disintegration of family ties and communities in the wake of a new form of individualism leading to new capitalist relationships in the countryside.[41] However, at neither Brandon nor Badbury can signs of significantly increased levels of cases such as the raising of the hue and cry, assaults, or breaches of the peace like hamsok be observed within families after 1348–49.

Nevertheless, it is probably the case that the true extent of intra-familial violence was greater. It is probable that a number of cases of violence between family members goes undetected. We are most likely to be able to establish close direct blood relationships, while it is far more difficult to chart strife within the wider kinship network, especially where marriage has established kinship links between families with different surnames. It also has to be stressed that it is possible that a significant

[37] Smith, 'Kin and Neighbors', p. 249 and p. 251.

[38] Ibid., p. 247 and pp. 250–51.

[39] See also Hanawalt, 'The Peasant Family and Crime', p. 7.

[40] These are unrepeated disputes over inheritance, sales, and rights to land by custom, and not disputes over other issues, such as rents owed by subtenants, for example.

[41] J. A. Raftis, 'Changes in an English Village after the Black Death', *Mediaeval Studies*, 29 (1967), 158–77 (pp. 163–65, 176–77).

degree of intra-familial conflict was never recorded in the court rolls. Some cases might have been resolved outside of the manor court, while the hierarchical framework of familial structures might in themselves also have contained some forms of conflict and dispute. Chastisement of wives and other dependants was probably tolerated as long as it was not seen to be excessively cruel, and consequently such forms of conflict would not have been brought to the manor court for us to examine in the first place.[42]

Recorded cases of intra-familial conflict also include some instances of repeatedly quarrelsome individual family members, indicating perhaps that hostilities were too entrenched to be solved more informally outside of the court. The Wynsoms are one such example, and another is perhaps the atte Buttok family of Badbury. In this case there are no indications as to what might have caused conflicts, but in one case in 1351 Joan and her husband Phillip atte Buttok were recorded as having justly raised the hue and cry against John atte Buttok, who was Phillip's brother, while Phillip also justly raised the hue against his brother John separately from his wife.[43]

On the other hand, in some cases the court records indicate attempts by relatives to reconcile quarrelling parties. When, at Brandon, Thomas and Adam Feg drew blood from each other it was another relative, John Feg, who acted as pledge for both parties to pay their amercements.[44]

Feuds between families and cases where whole villages were divided into opposing camps have been observed in a number of medieval communities across Europe.[45] As Rösener shows, 'Blutrache' was not uncommonly found especially in the 'free peasant communities along the north sea coast and the alpine regions'; here it was families or clans which stood in opposition to each other, usually due to the murder of a family member by a relative of the opposing family group.[46]

In Brandon no particular set of allegiances between families can be detected, and there appear to have been no feud-like clashes between individual families. The family of the Clerks, rather than fighting another family, quarrelled with each other as well as anybody else who crossed their path. The earliest we hear of the sons of William Clerk fighting each other was in the year of their father's death in 1322,

---

[42] For discussions on domestic violence and violence towards wives, see for example *Women in England*, ed. and trans. by Goldberg, pp. 17–18; Hanawalt, 'The Peasant Family and Crime', p. 5.

[43] LGAD, MS 11223, fol. 12.

[44] UCBC Roll 291, m. 14.

[45] For feuds, see, for example, C. Dyer 'Power and Conflict in the Medieval English Village', in his *Everyday Life in Medieval England* (London: Hambledon, 1994), pp. 1–11 (p. 9); E. Le Roy Ladurie, *Montaillou: Cathars and Catholics in a French Village 1294–1324*, trans. by Barbara Bray (Harmondsworth: Penguin, 1990).

[46] W. Rösener, *Bauern im Mittelalter* (München: C.H. Beck, 1991), pp. 181–83 (citation from p. 181, my translation).

when Laurence failed to be present in court to answer his brothers John and Reginald in a plea of trespass.[47] While this was followed by a few years of apparent calm between the brothers, in 1328 Alice Clerk, the widow of William Clerk, and her daughter Agnes were amerced 6*d*. for having committed hamsok together against Emma Kempe who raised the hue against them justly. In the same court Reginald, one of Agnes's brothers, was presented for drawing blood from William Fuller, and Reginald's brother Laurence had drawn blood from Thomas Poyntel.[48]

The court records do not tell us what these unfortunate individuals might have done to be treated this way, but soon the Clerks turned their attention once again to each other. In 1333, in a number of courts, John Clerk took both his sister Agnes and his brother Laurence to court over a succession of pleas of debt. Agnes persistently refused to come to court to answer her brother's charges while Laurence took matters into his own hand and disturbed the peace in John's house by committing hamsok against him so that John's wife, Katerina, intervened by raising the hue and cry against her brother-in-law.[49]

By 1334 Reginald had taken sides in these quarrels, and acted as pledge for his sister Agnes in a plea of debt against their brother John, while it was ordered to attach Laurence to answer John in a plea of trespass.[50] In the same year their mother was also participating in this intra-familial feuding, when it was ordered to attach her to answer Reginald her son in a plea of trespass.[51]

The only brother who does not appear to have involved himself in these quarrels was Stephen about whom little can be established from the court records, but he seems to have held little land and may well have been the same Stephen Clerk of Brandon who, having surrendered to the Flete prison in 1366, was pardoned of his outlawry in Norfolk and who had not appeared before the Justices of the Bench to answer a certain William de Beteryngge concerning a plea involving £20.[52]

Although a full-blown feud cannot be detected in Badbury, the strife between the Strangbogh freeholding family and much of the rest of the village probably came very close to such a situation. The Strangboghs were important and large freeholders in Badbury, and in 1344 Agnes Strangbogh died leaving a total of two and a half

---

[47] UCBC Roll 289, m. 21^{v}.

[48] UCBC Roll 289, m. 4.

[49] UCBC Roll 291, m. 3^{v}; UCBC Roll 291, m. 4; UCBC Roll 291, m. 4^{v}; UCBC Roll 291, m. 5.

[50] UCBC Roll 289, m. 10; UCBC Roll 289, m. 11.

[51] UCBC Roll 289, m. 12^{v}.

[52] As far as I am able to establish there were only two Stephen Clerk's in Brandon, one was the son of William Clerk and the other the son of John Clerk, one of Stephen's brothers. *Calendar of the Patent Rolls Preserved in the Public Record Office: Edward III*, vol. XIII (London: HMSO, 1912), p. 320.

virgates of land to William Strangbogh.[53] By 1344 William Strangbogh was already involved in a trespass dispute with John Cocks, and in the first court of the next year John Cocks still accused William Strangbogh of trespass.[54] In the following court in 1345 John Cocks was told by the court to recover damages to the value of £8 from William Strangbogh caused by various trespasses.[55] The following events are not clear, but John Cocks was joined by John le Berebrut in claiming trespass offences committed by William Strangbogh in 1346.[56] Thereafter tempers seemed to cool down until 1358 when eight villein tenants, among them John Cocks, trespassed into William Strangbogh's crops to the damage of three quarters of barley, and the whole tithing was amerced for trespassing with horses and cattle into William Strangbogh's hay causing damage to the value of 10*s*.[57]

The latter offence had actually taken place three years previously, in 1355, suggesting that, for whatever reason, William had kept his peace about the matter until the latest trespass occurred. However, whatever had set this series of events in motion, the village appears to have been able to resolve the disputes, for thereafter not one sign of a clash between the Strangboghs and the other villagers can be detected. Neither does it appear to have been the case that these clashes turned into physical confrontations, as no allegation of bloodshed was brought before the court.

At first glance the case of the Strangbogh's may be seen to suggest a conflict between villeins and freeholders, and rich freeholders at that. This can, however, be safely dismissed, for the other freeholding family, the Blakes, also substantial landholders, encountered no such problems.

Moreover, there was some intermarriage between villeins and freeholders. Joan, for example, who was the widow of John Strangbogh, married John Chobenham, a villein tenant in 1340, taking with her one messuage and one virgate of land which John Chobenham was granted to hold in villeinage.[58] Whilst the land was probably already villein tenure, it is clear that, partly at least due to necessity, freeholders were not an exclusive grouping, and their younger non-inheriting children at least took up villein land and married villein tenants. It therefore appears to have been the case that the conflict between William Strangbogh and the other villagers was of a personal nature.

[53] LGAD, MS 10774, fol. 18; LGAD, MS 10646, fol. 32.

[54] LGAD, MS 10774, fol. 18; LGAD, MS 10774, fol. 46.

[55] LGAD, MS 11251, fol. 20.

[56] LGAD, MS 11251, fol. 49.

[57] LGAD, MS 10634, fol. 11.

[58] LGAD, MS 10773, fol. 39.

III

Medieval parents operated within a culture that valued nurturing and caring for one's young, which was probably especially true for mothers, as Hanawalt has argued.[59] However, care for one's offspring was also seen to entail discipline, and beating one's children was considered acceptable as long as it was done within reason. In 1275 John Pas of Brandon took Thomas Mayhy to court claiming that Thomas had assaulted both himself and Alice, Thomas's daughter, on account of which John had lost service of Alice for one month to John's damage of 2*s*.[60] Thomas pleaded not guilty and an inquiry found that Thomas, while not having beaten John up, was in fact guilty of beating his daughter for which the damage was assessed at a mere 1*d*. Therefore beating one's daughter was considered more acceptable than beating one's daughter's employer. However, beating a servant to the point of their incapacity to fulfil their obligations of service to their employer could lead to damages being demanded.

One area of cooperation, extending even beyond the boundaries of kinship can be found in the communal structures to care for orphans.[61] At Badbury, orphaned children were looked after by kin or unrelated neighbours, such as William atte Grene, who took in one-year-old Edward, the son of John le Webbe, in 1349, presumably after his parents had fallen victim to the Black Death.[62] William was already the father of three sons, one of whom had died in the plague year of 1348 at the age of about twelve. William had taken a certain Gilbert Mayhu to court, as the latter had withheld little Edward's tunic with a hood and a night cap as well as one pan, all of which was valued at 16*s*. Presumably the items had been lent to Gilbert who had failed to return them.

In Brandon these structures were a little more complex. In the case of young under-age heirs to free tenements the guardianship over freehold property as well as freehold heirs fell directly to the lord, although it is not clear how this would have been arranged in practice. In 1347 John de Metefeld died holding seven acres of arable land freely. His son and heir, John, was only seven years old and clearly under age. Accordingly it was ordered 'to seize the said holding and the body of the said heir'.[63] It may be that in such circumstances the lord's agents took over the responsibility of finding a suitable guardian figure for the child, rather than leaving kin and neighbours to find a place for the child to reside and the holding to be looked

---

[59] B. A. Hanawalt, *'Of Good and Ill Repute': Gender and Social Control in Medieval England* (Oxford: Oxford University Press, 1998), p. 164.

[60] UCBC Roll 289, m. 1.

[61] See also, for a discussion of communities and orphans, B. A. Hanawalt, *The Ties that Bound: Peasant Families in Medieval England* (Oxford: Oxford University Press, 1986), pp. 250–53.

[62] LGAD, MS 11179, fol. 16.

[63] UCBC Roll 291, m. 15.

after in a more informal fashion. Hence familial and communal networks clearly overlapped and were not divorced from each other.

The charge of keeping mischievous youngsters in line was also considered a communal rather than a purely parental responsibility. Misbehaving teenagers could thus be presented in court by kin and neighbours for any offences they might have committed, whether against the lord or against other members of the community.

The experience of stepchildren, and therefore step-parentage, was probably common in an age where dangerous work could lead to serious accidents, and deaths due to diseases, including the Black Death, in the second half of the fourteenth century, were frequent. Remarriage after the death of a spouse would therefore lead to the formation of new cooperative networks and kinship allegiances, while existing children from previous marriages fell under the care and attention of new family members. At the manor of Badbury some insight can be gained into how the community perceived step-parentage through the study of the *garciones* lists. These were, as Fox has shown, lists of landless males resident outside of their parental households at Glastonbury Abbey manors who worked as servants, usually for other resident peasant families.[64] Young males were entered on these annual lists from the age of twelve onwards and had to pay a head-tax to the lord until they left the lists, either by taking up land, dying, or leaving the manor. While on the lists and exempt from payment due to their continued residence at the parental household, these mainly young men and boys in their teenage years were accordingly noted to be dwelling either with their mother or father.

Although historians have frequently noted the longevity of women, out of eighty-four recorded incidents of sons liable to pay a fine while entered on the *garciones* lists at Badbury, only thirty-two referred to the son residing with the mother (38.1%), and the majority of fifty-two (61.9%) were noted as staying with their father. If it was therefore the case that women tended to outlive their husbands, the proportions should have been different, if not reversed. Hence the only other explanation would be that 'fathers' included stepfathers, whom widows had married, who had thus taken over the responsibility for and care of the children from the previous marriage, as the new head of household. As such the concept of paternity, and hence the term 'father' does not appear to have been solely dependent on a pure definition of biological blood relationships between father and, in this case, son, but rather appears to have included stepfathers.

Servants were regarded as part of the familial household and fell under the authority of the head of that household. There was potential for friction in the employer-employee relationship, down to questions of authority, or due to matters concerning pay and broken contracts. However, as Goldberg shows, masters and

[64] For an excellent analysis of these *garciones* lists, see H. S. A. Fox, 'Exploitation of the Landless by Lords and Tenants in Early Medieval England', in *Medieval Society and the Manor Court*, ed. by Razi and Smith, pp. 518–68.

their apprentices could have a lot in common.[65] In Brandon and Badbury employers and employees operated within the same community and were subject to the court of the manor and might come from befriended or related families.

Pledging can be seen as a sign of cooperation, and in Brandon employers sometimes acted as pledges for their servants. In 1330 Robert le Barker acted as pledge for his servant William, while in 1332 a servant even acted as pledge for his employer.[66] However, in 1331 Alice the servant of Hugo Ope in Brandon carried off some of her employer's grain at the harvest and was amerced 2*s*.[67] This heavy amercement probably represented the disapproval of the community of her actions. Similarly Goldberg shows that employers also had responsibilities towards their servants, they were expected to keep to their contractual obligations, and while masters could exercise authority over their servants, this was not to be abused.[68] At Brandon no blood needed to be drawn by an employer from a servant in order for a beating to be considered unacceptable. Therefore when Peter Blosme of Brandon beat his servant Edmund in 1391, it was considered to be an 'assault against the peace' and Peter was amerced 3*d*.[69]

Old age and retirement brought with it a new age of dependency, and it was often the elderly themselves who made arrangements for their retirement while they were still able to.[70] At Brandon the lord's demand that if the tenant should become infirm 'he shall not be quit of any works nor of customs'[71] probably encouraged early retirement especially from those who occupied larger holdings.

Elderly tenants often entered maintenance contracts, whereby agreements were drawn up concerning both the future of their holdings and the nature of the provision of the retiring individual.[72] In Brandon, Custancia Harewere surrendered one toft for the benefit of Reginald le Netherd and his wife, Margery. In return Custancia was to have the right to live there for the rest of her days.[73] Breaches in these agreements

---

[65] P. J. P. Goldberg, 'Masters and Men in Later Medieval England', in *Masculinity in Medieval Europe*, ed. by D. M. Hadley (London: Longman, 1999), pp. 56–70 (pp. 57–58).

[66] UCBC Roll 289, m. 6, and UCBC Roll 289, m. 9.

[67] UCBC Roll 289, m. 8.

[68] Goldberg, 'Masters and Men', p. 61.

[69] UCBC Roll 292, m. 16.

[70] See on old age in the peasant community, for example, Hanawalt, *The Ties that Bound*, pp. 227–42; R. M. Smith, 'The Manorial Court and the Elderly Tenant in Late Medieval England', in *Life, Death and the Elderly: Historical Perspectives*, ed. by M. Pelling and R. M. Smith (London: Routledge, 1991), pp. 39–61.

[71] Cambridge, Gonville and Caius MS 485/489, fol. 355.

[72] See Hanawalt, *The Ties that Bound*, pp. 229–30; C. Dyer, *Standards of Living in the Later Middle Ages: Social Change in England c. 1200–1520* (Cambridge: Cambridge University Press, 1989; repr. 1993), pp. 151–52, 175.

[73] UCBC Roll 289, m. 9.

could spark conflict which sometimes surfaced in court records, but were not in direct evidence at either Brandon or Badbury.

The last rituals in the medieval community were those associated with death, and the last wishes of a dying tenant were taken very seriously by the family and the community, and they were adhered to in the manorial court. The elaborate ritual around death, the deathbed surrender, focused on the family and the land of the dying tenant and as such brought the various elements of the peasant community together, including the formal legal sphere of lordship. The deathbed surrender depended and rested upon a respect for the relative's wishes and the cooperation between family members to carry out those wishes. While such deathbed transfers were absent from the Badbury court records, they can be found at Brandon with increasing frequency in the last decade of the fourteenth century. The individual was noted in the court records as being sick to death (*languens in extremum*), and surrendered the holding into the hands of the lord's representative. This could be a seigniorial official, but often seems to have been a relative.[74] Thus when Roger Fayrchild lay on his deathbed he surrendered his forty acres of villein land into the hands of his relative John Fayrchild, who held no manorial offices of any kind.[75]

The person acting as the lord's representative was always accompanied by a number of individuals who were close relatives and unrelated neighbours, as the court rolls note 'according to the custom of the manor'. Therefore in the last ritual in which the departing tenant participated, the interests of the family, the lord, and the wider community were being represented and addressed. Custom was being upheld, and the mind of the dying tenant concerning his offspring and heirs were put at peace before numerous witnesses. Such rituals could have inhibited subsequent strife among surviving family members while at the same time encouraging cooperative behaviour between kin to honour the wishes of the dead.

IV

The community and families also worked cooperatively against the lord. In activities which contravened seigniorial authority and law, networks of solidarity between kin and unrelated neighbours overlapped significantly. The intra-communal conflicts between families and individuals were often put aside and suspended when it came to resisting lordship. The same was true for individual families and members of households. Even a brief glance at acts of resistance to lordship shows that both close and wider kinship networks did play important roles in establishing patterns of solidarity between peasants against lordship. It is clear that the various seigniorial exactions which fell on villein holdings impacted significantly on the family economy, whether

[74] UCBC Roll 292, m. 21^{v}; UCBC Roll 292, m. 25.

[75] UCBC Roll 292, m. 18.

these were rents in kind, cash, or labour.[76] Such exactions therefore impinged on the standards of living and the amount of disposable cash or leisure time of the household. Furthermore, as seigniorial demands fell on the household as a whole, all cohabiting members of the household were affected. Therefore it is perhaps not surprising to find family members cooperating in resisting or evading seigniorial demands.

In Badbury, for example, fathers concealed the absence of their sons from the *garciones* lists. In one case a Badbury family concealed the absence of their son from this tax list for nearly eight years. In 1374 Philip Botoun was ordered under pain of forfeiture of one oxen to produce his twenty-year-old son John in the next court, to place him on the *garciones* lists, and to be sworn into the tithing.[77] However, the lord was unable to profit from John's head tax on the *garciones* lists, for by the time the next court was held, he was exempt from payment as he had just taken up a holding of one messuage and one virgate.[78] It is clear that in a small community such as Badbury, there was little one could or could not do without everybody else knowing about it. Therefore John Botoun's transgression was probably well known in the village, and nobody cared, until the lord began to exert pressure to remedy the situation which was costing him, after all, a substantial amount of money.

Families and neighbours acted together in concealing illicit marriages, sometimes over a period of years, while numerous more minor offences are revealed in which family members acted together, such as the Badbury cousins Richard and William atte Buttok, aged sixteen and fifteen respectively, who were presented together for having carried off the lord's fencing in 1370.[79]

One area in which kinship solidarity against lordship becomes prominent is in villein flights. In total at Badbury four villein flights are recorded across the century, and three of these concerned relatives.[80] At Brandon a total of twelve villein flights were recorded in the court records in the fourteenth century, and in six of these cases relatives can be identified. For example in 1352 the court records declared that it was not known where Thomas son of Peter, villein by blood, was dwelling. However, by 1365 it was noted that while Thomas's whereabouts were still unknown, his brother Alex was known to be dwelling in London.[81] It may well be the case that Thomas ran off first and that his brother followed him at some point between 1352 and 1365. In another remarkable case the Bishop of Ely can be observed attempting to put relatives of villein runaways under considerable pressure not to flee the manor as

[76] For a discussion of these issues see Dyer, *Standards of Living in the Later Middle Ages*, esp. pp. 136–38; Hilton, 'Feudalism in Europe', pp. 2–4.

[77] LGAD, MS 11221, fol. 18.

[78] LGAD, MS 11221, fol. 40.

[79] See, for example, LGAD, MS 10774, fol. 18, for a concealed marriage; LGAD, MS 11182, fol. 44.

[80] See, for example, LGAD, MS 10773, fol. 39.

[81] UCBC Roll 291, m. 24; UCBC Roll 291, m. 45^{v}.

well. In 1351 the villein Walter Alkoc was noted as having removed himself illicitly from the lord's demesne. In the same court his relative Bartholomew Alkoc had to find two pledges that he was not going to remove himself from the manor.[82] However, it was only a year later, in 1352, that it was ordered in court to attach 'Bartholomew Alkoc, villein by blood, because he has fled'.[83]

Familial connections also emerge in the much rarer but more serious cases of open peasant revolt. In 1381 William Metefeld junior of Brandon emerged as a local leader of a rebel contingent. Metefeld's father, William Metefeld senior, also appeared in the indictment records and pardon rolls of 1381.[84] His son William junior had led a rebel group to the nearby property of John Strakour at Weeting on 15 June, where the rebels proceeded to take a number of goods and chattels which were entrusted for safe keeping to William Metefeld senior. However he appears to have changed his mind and returned the goods the next day.[85]

Cases of solidarity and collaboration between kin and neighbours against lordship thus highlight the most important social and economic delineator in rural communities, namely that between peasants and lord.

Fourteenth-century families were not harmonious institutions, yet neither would Zola's image of peasant families torn apart with strife, greed, and violence be generally recognizable in later medieval English villages.[86]

Cooperative networks governed by kinship were inextricably intertwined with the wider communities. On the one hand, the cooperative needs of open-field agriculture were probably difficult to combine with persistently disruptive families, which may have encouraged communal sanctions against persistently troublesome individuals or groups. On the other hand, communal and familial interests also combined against lordship. Families were not rigid and inflexible, but capable of incorporating change, as cases of remarriage and step-parentage show. Kinship networks could therefore shift and adapt to new circumstances. Household compositions might change with

[82] UCBC Roll 291, m. 22.

[83] UCBC Roll 291, m. 26.

[84] Public Record Office, King's Bench, KB 9/166/1, fol. 51; PRO KB 9/166/1, fol. 53; PRO, Chancery, C 67/431, fols 40, 31, 26. See also C. Dyer, 'The Rising of 1381 in Suffolk: Its Origins and Participants', in his *Everyday Life in Medieval England*, pp. 221–39. For general accounts of the rising in East Anglia, as well as the role of the rebels of Brandon in it, see as well H. Eiden, *'In der Knechtschaft werdet ihr verharren': Ursachen und Verlauf des Englischen Bauernaufstandes von 1381*, Historische Forschungen, 32 (Trier: Trierer Historische Forschungen, 1995); Müller, 'Peasant Mentalities and Cultures in Two Contrasting Communities'; A. W. Reid, 'The Rising of 1381 in South-West and Central Norfolk', in *Studies towards a History of the Rising of 1381 in Norfolk*, ed. by B. Cornford (Norfolk: Norfolk Research Committee, 1984), pp. 11–33.

[85] PRO KB 9/166/1, fol. 51; PRO KB 9/166/1, fol. 53.

[86] É. Zola, *The Earth* (London: Penguin Classics, 1980).

the arrival of servants and the departure of adult children, and with each change new connections and links within the wider kinship network were made, fostering new cooperative and supportive networks.

However, the same structures which ensured cooperative behaviour between kin also harboured conflictual dynamics. These were rooted in the manor-oriented economic and political framework within which families functioned, and in gendered authority structures, which interacted with the economic nature of familial formations. While land, the most important economic asset of the peasant holding, clearly emerges as a focal point for cooperation, it is also the potential axis of conflict. Livelihood, living standards, prospective marriages all hinged on land ownership and threats to these were probably more important than some kinship ties.

'Illicit Love' in Medieval Slavonian Cities

MARIJA KARBIĆ

The aim of my essay is to describe the attitude of the broader community towards sexual relations outside marriage in medieval urban settlements; in particular it will focus on the two main types of such relationships: adultery and concubinage. As shall be demonstrated, the attitude was based, in the first place, on the needs of a community to establish and maintain order. Illicit sexual relationships were seen as a serious threat to this order and were, consequently, stigmatized by society and prosecuted by communal legislation and courts of law. However, certain discrepancies between written law and practice may be observed and, in spite of the severe punishments imposed by law, it is evident from the historical record that the attitudes of society and the communal authorities were in practice much more tolerant.

The attitude of a community towards this problem can be observed in the example of urban settlements of medieval Slavonia — part of the medieval kingdom of Hungary-Croatia. These settlements may be divided into two basic types: free royal cities (*libere regie civitates*), directly dependant on the Crown and enjoying the right of self-government and legislation (city statutes), and market towns (*oppida*), which were parts of great lordships and had only limited autonomy. Besides the Slavonian cities, I shall also touch upon the situation in medieval Ilok/Újlak, a city situated in the southern part of medieval Hungary, which was close to the Slavonian free royal cities in its development and for which an interesting law book (the so-called Statute of Ilok) from the late Middle Ages is extant. However, the main emphasis of my essay will be placed on the free royal cities of Gradec (part of present-day Zagreb) and Varaždin, situated in the north-western part of medieval Slavonia, because the source material for them is more abundant and diversified, while for other settlements there are only a few charters for each. My essay will cover the period from the beginning of the fourteenth till the end of the sixteenth century.

This essay is based on two types of sources: firstly normative, and secondly those reflecting the everyday life of these cities. As the normative source I shall primarily refer to the aforementioned law book of Ilok, because the statutes of Slavonian cities

are extant only in their later versions (from the seventeenth century onwards). The so-called Statute of Ilok consists of five books, of which the first contains the charter of privilege given to Ilok in the second half of the fifteenth century by Nicholas of Ilok, while the four remaining books consist, with some additions, of the legal rules observed in eight Hungarian cities (Buda, Pest, Košice, Bardejov, Trnava, Bratislava, Prešov, and Sopron). These, together with some other Hungarian cities and the Slavonian free royal city of Gradec, made up a group of so-called tavernical cities, that is, free royal cities for whom the court of appeal on decisions of city magistrates was, from the end of the fourteenth century, a tavernical court presided over by a special royal high officer called the Master of the Treasury (*magister tavernicorum*).[1] Although, as was mentioned before, the eight towns named here were not the only tavernical cities, they are explicitly mentioned in the law book of Ilok because they had, since the time of Wladislas II, sent their representatives as assessors to the tavernical court. The law book of Ilok received the confirmation of King Louis II on 13 December 1525.[2] It may be presumed that rules similar to those in the law book

[1] Master of the Treasury (*magister tavernicorum*) is the title of the chamberlain, originally responsible for the king's finances, derived from *tárnok*, the Hungarian name of the guards of royal magazines in the early Middle Ages. See *The Laws of the Medieval Kingdom of Hungary: Decreta regni mediaevalis Hungariae*, ed. by János M. Bak, Pál Engel, and James Ross Sweeney, vol. II (Salt Lake City: Charles Schlacks, 1992), p. 255.

[2] Critical edition of the text of the law book of Ilok: *Statut grada Iloka iz godine 1525: Statutum civitatis Ilok anno MDXXV*, ed. by Rudolf Schmidt, Monumenta historico-iuridica Slavorum Meridionalium, 12 (Zagreb: Jugoslavenska akademija znanosti i umjetnosti (The Academy of Sciences and Arts of the Southern Slavs), 1938) (henceforth: *SCI*). For more details on tavernical law and tavernical cities, see the following: Imre Szentpétery, 'A tárnoki ítélőszék kialakulása' (The making of the tavernical bench), *Századok*, 68 (1934), 510–90; Štefánia Mertanová, *Ius tavernicale: stúdie o procese formovania práva tavernických miest v etapách vývoja taverniíckeho súdu v Uhorsku (15.–17. st.)* (*Ius tavernicale*: a study of the process of formation of the legal system of tavernical cities through stages of the development of the tavernical court in Hungary (from the fifteenth to the seventeenth century)) (Bratislava: Veda, Vydavatel'stvo Slovenskej akadémie vied, 1985); Martin C. Rady, *Medieval Buda: A Study of Municipal Government and Jurisdiction in the Kingdom of Hungary* (Boulder: East European Monographs, 1985), pp. 127–62; Teodora Shek Brnardić, 'Tavernik, tavernikalni sud i tavernikalno pravo' (Master of the Treasury, tavernical court and tavernical law), *Arhivski vjesnik*, 40 (1997), 179–98. For more details on the law book of Ilok, see the following: Andrija Zdravčević, 'Iločki statut iz 1525. godine i njegova nasljednopravna regulacija' (The statut of Ilok from 1525 and its regulations regarding inheritance) (unpublished doctoral thesis, Sveučilište u Zagrebu, 1992); Lujo Margetić, 'Iločka pravna knjiga (tzv. Iločki statut)' (The law book of Ilok (the so-called Statute of Ilok)), *Zbornik pravnog fakulteta u Zagrebu*, 44 (1994), 93–116; Darko Vitek, 'Društveni odnosi u srednjovjekovnom Iloku prikazani Iločkim statutom iz 1525. godine' (Social relations in medieval Ilok as depicted in the Statute of Ilok from 1525) (unpublished masters thesis, Sveučilište u Zagrebu, 2000); Darko Vitek, 'Struktura i izvorište teksta Iločkog statuta' (Structure and source of the text of the Statute of Ilok), *Scrinia Sclavonica*, 1 (2001), 404–20.

of Ilok were also applied in the case of Gradec, because they both belonged in the group of the so-called tavernical cities. (This was also the main reason why I decided to include Ilok in my research.) Similar rules were also apparently applied in the cases of other Slavonian free royal cities, taking into account similarities of lifestyle and social structure as well as human and business relations and exchanges of population.

Regarding the other sources, they are in the first place the judicial records of city courts of Gradec and Varaždin and, to a lesser extent, other types of communal records (books on property, collections of inventories, wills, other legal documents, and so on). Historical records of medieval and early modern Gradec are published in the monumental collection *Povjestni spomenici slobodnoga kraljevskoga grada Zagreba: Monumenta historica liberae regiae civitatis Zagrabiae*, which was edited by Ivan Krstitelj Tkalčić and his successors.[3] Judicial records are extant for the period from 1355 till the end of the sixteenth century with small gaps,[4] while proprietary books are extant in the continuous series from 1384 until 1526.[5] The most important records from Varaždin are city protocols, which give data on business, inheritance, and judicial trials. The city protocols of Varaždin are extant for the periods 1454–64, 1467–69, 1587–89, and 1592–1602.[6] Unfortunately, the city records, which are extant, are mostly very brief and give only elementary data about the cases mentioned in them.

In the medieval Slavonian cities the attitude towards adultery was extremely negative. In medieval Gradec adultery was considered to be a major offence (*malitia maxima*), and adulterers were labelled as criminals (*malefactores*) as was the case with the butcher, Clemens, also known as Ribarić, and Ann, wife of John, in 1385.[7] Consequently, the punishments imposed were extremely harsh. During the fourteenth and the beginning of the fifteenth century, the customary penalty was capital punishment for both persons involved. The historiographical consensus has maintained that the punishment for adultery in Gradec at that time was burning at the

[3] *Povjestni spomenici slobodnoga kraljevskoga grada Zagreba: Monumenta historica liberae regiae civitatis Zagrabiae*, ed. by Ivan Krstitelj Tkalčić and others, 22 vols (Zagreb: Grad Zagreb and others, 1889–1992) (henceforth: *MCZ*). Records for the medieval period until 1526 are published by Ivan Krstitelj Tkalčić (vols I–XI), while those up to the end of the sixteenth century are published by Emilij Laszowski (vols XII–XVI).

[4] *MCZ*, IV–VIII, XIV.

[5] *MCZ*, IX–XI.

[6] The records from the fifteenth century are published in *Poviestni spomenici slobodnoga kraljevskoga grada Varaždina: Monumenta historica liberae regiae civitatis Varasdini*, ed. by Zlatko Tanodi and Adolf Wissert, 2 vols (Varaždin: Grad Varaždin, 1942–44) (henceforth: *MCV*), while the records from the sixteenth century are published in *Zapisnici poglavarstva grada Varaždina: Protocolla magistratus liberae et regiae civitatis Varasdini*, ed. by Josip Barbarić and others, 8 vols (Varaždin: Historijski arhiv Varaždin, 1990–2000) (henceforth: *PMV*), I–III (1990–92).

[7] *MCZ*, V, 245–46.

stake. This opinion was formulated for the first time by I. K. Tkalčić, later to be accepted by V. Mažuranić and F. Buntak.[8] However, I have found no evidence to support this idea. In the cases from the fourteenth century noted in judicial books, nowhere is it explicitly stated how the punishment would be carried out; it is only said that the adulterers would be punished by death (*vindicta sumpmatur*) without further explanation.[9] Taking into account that burning at the stake is not to be found as punishment for adultery either in the law book of Ilok or, as shall be shown later, in Varaždin, I do not see any reason to assume that the punishment for adultery in fourteenth-century Gradec was burning. In the later period, punishments were less harsh. During the first half of the fifteenth century capital punishment was replaced by perpetual banishment, usually accompanied by some additional punishments (branding on the face with a hot iron, public flogging or caning, and/or public humiliation), as occurred in a case from 1432. In this case Margaret, daughter of Thomas, widow of Barnaba, and wife of tailor Blaise, was sentenced to be bound on the 'horse', branded with a hot iron on the face, caned, and expelled from the town, while her partner in adultery, barber John, son of Thomas Črnčević, was sentenced to be bound on the 'horse,' caned, and expelled from the town.[10] The case of rein-maker Gal from 1458 shows that in the middle of the fifteenth century the punishment for adultery might also be imprisonment. Gal was accused by another rein-maker, Baptist, of having slept with Baptist's wife. Gal confessed that he had done this several times, but defended himself with the fact that the wife had called upon him to do that (*per ipsam solam ipse fuisset vocatus*). After the wife escaped from the city, the court decided to punish Gal with imprisonment.[11] In the aforementioned law book of Ilok, the offended party was entitled to kill the offenders caught in flagrante delicto and, if he or she was not able to kill them immediately, he or she was obliged to report them to the authorities. The authorities were supposed to arrest them, question them with the use of torture, and execute them by burying them alive.[12] Unfortunately, because of the lack of sources, we do not know if and how this rule was applied in practice.

The most significant difference between Ilok and Gradec is that in Ilok the offended party had the right and even the duty to take justice into his or her own hands, while in Gradec this was strictly prohibited. Two cases, both involving Simon Šterk from Gradec, may serve to illustrate the point. In the first of them, in 1460, Simon

[8] *MCZ*, V, p. xv; Vladimir Mažuranić, *Prinosi za hrvatski pravno-povijestni rječnik* (Contributions to historical dictionary of legal terminology), 2 vols (Zagreb: JAZU, 1908–22, repr. 1975), II (1975), 1095; Franjo Buntak, *Povijest Zagreba* (A history of Zagreb) (Zagreb: Nakladni zavod Matice Hrvatske, 1996), p. 76.

[9] *MCZ*, V, 245–46, 356.

[10] *MCZ*, VI, 152.

[11] *MCZ*, VII, 146.

[12] *SCI*, lib. III, cap. XVII, p. 43.

was banished from the city because he cut off the nose of his wife, Helen, after he caught her in the act of adultery. Moreover, in the event that he returned to the city without permission, one of his hands was to be cut off. Conversely, his wife was also banished because of her adultery.[13] Two years later (1462) both were pardoned and allowed to come back to Gradec. It is interesting that they are listed together in the letter of pardon, which may point to the fact that they had been reconciled and were living together at that time. While they were sentenced in separate trials, they obtained the pardon together, probably because they requested it together. It seems improbable that they would make such a presentation together if they were living apart.[14] However, this was not the end of the story: a few years later Simon was killed by a certain Mathew, who caught him in the act of adultery with his wife. Mathew immediately fled from the city, and his property was confiscated in favour of Helen and the city. Mathew's wife, Elisabeth, was also banished because of her adultery, while Helen remained, benefiting from her greater wealth.[15] However, the most important feature in this story is that the murder was treated as any other: the fact that it was committed as a consequence of the adultery was not taken into consideration as a mitigating circumstance. Thus, it may be concluded that taking justice into private hands was strictly prohibited, and, consequently, that adultery was considered a public crime and not a private offence.

Those who helped others to commit adultery were also punished. Thus, in Gradec in 1432, Marina, a woman in whose house adulterers were meeting, was punished by 'being put on the horse', caned, and banished from the city.[16] In one other case Francek, son of John, was forced to swear an oath with six oath-helpers that his daughter Agata did not 'lie' with shoemaker Tomasio, a married man, with his knowledge.[17] One article of the law book of Ilok is related to women who, because of 'money or favour', encouraged girls and young women to commit fornication. Although this article in the first place refers to procuring, where those procured were married women, the law understood the crime as incitement to adultery. Moreover, this offence was considered to be even worse than merely assisting adultery, and thus the punishment envisaged was death. Women sentenced because of procuring should be drowned, according to the rules of the law book of Ilok.[18]

Although the penalties imposed by law were rather harsh, the sources show that the practice was in most cases less rigid. In almost all cases the local court adjudicated these punishments, but usually pardon was soon granted or the punishment was lessened. The offenders could be pardoned due to the intercession of other

[13] *MCZ*, VII, pp. xviii, 192.

[14] *MCZ*, VII, 225.

[15] *MCZ*, VII, 330, 334, 337.

[16] *MCZ*, VI, 152.

[17] *MCZ*, V, 356.

[18] *SCI*, lib. III, cap. XVI, p. 43.

citizens, if the offended party forgave the offending marital partner or if the offended was reconciled with the offenders. A good example of the first situation was the case of Helen, the wife of Guy Fajtlin, turnkey in the castle of Medvedgrad, and her lover Fabian, son of Gregor (from *Vicus Latinorum*, one of the suburbs of the adjacent bishop's market town of Zagreb, also a part of present-day Zagreb), and husband of Helen Kusica; the first Helen (Guy's wife) and Fabian were pardoned by the supplication of some citizens in 1446.[19] The second situation may be illustrated by the case of Nicholas Soldinarić from 1502. Nicholas and his lover were even sentenced to death — although at that time the usual punishment for adultery was only perpetual banishment — because Nicholas, besides committing adultery, also wounded master goldsmith Michael, the husband of his lover. The capital punishment was revoked and they were both pardoned after Michael forgave his wife and took her back. In the account it is noted that Michael forgave his wife because some people pleaded for her and it seems that his act was perceived as an act of charity and was positively valued.[20] The case of Thomas, a shoemaker from the suburbs of Gradec, from the second half of the fifteenth century, represents an example of the third situation. Thomas was the lover of the wife of Blaise from Opatovina, another suburb of episcopal Zagreb. Thomas was pardoned after he was reconciled with Blaise and swore an oath that he would never sin again with Blaise's wife or the wife of any other person. For his part, Blaise also swore an oath that neither he nor his relatives would ever reproach Thomas for his former adultery, on pain of paying a fine.[21]

Another feature of the customary law of Slavonian cities is that in most cases it did not differentiate among the offenders on the basis of their gender. Thus, in the law book of Ilok both offenders received the same punishment regardless of their gender. Also, it was apparently irrelevant whether a husband or a wife committed the adultery. The seventeenth article in the third book of the law book of Ilok quoted above has the title *De adulterio commisso per legittimam mulierem, vel virum legittimum* (About the adultery committed by a legitimate wife or a legitimate husband) and starts with the text 'Si mulier habens virum legittimum, aut vir habens vxorem legittimam, et alteruter perpetrauerit adulterium' (If a woman has a legitimate husband or a man has a legitimate wife and one or the other commits adultery), even though the rest of the text speaks about a case in which the adultery was committed by a woman. It seems clear that women and men were considered to be equally responsible and that punishments were evenly applied, regardless of gender. Even in the cases in which some differences existed, the variation in the punishment could be the result of other circumstances, and not the difference in gender. In Varaždin in 1587, in the case of John Kuren and a girl by the name of Strelčevićka, the difference in the punishment could be the result of their social positions. Kuren was a

[19] *MCZ*, VI, 433.

[20] *MCZ*, VIII, pp. x–xi, 136, 141.

[21] *MCZ*, VII, 304.

distinguished citizen, while she belonged to the lower classes. Strelčevićka was punished by being bound to the pillar of shame, flogged, and banished, while his punishment was commuted to a fine.[22] However, her banishment from the town also did not last long, as is attested by another adultery trial conducted against her and Kuren one year later (1588). This time both were to be sentenced to flogging and banishment from the town under the threat of capital punishment, but that did not happen because Kuren swore an oath that they had not committed adultery after their first presentment.[23] In the previously mentioned case from Gradec from 1432, the case of Margaret, the wife of the tailor Blaise, and the barber John, in which both were condemned to be bound on the 'horse', caned, and exiled, she was also condemned to be branded with a hot iron on the face. The difference in this case might be due to the fact that she was married and he was not. It seems that the position of women in the Slavonian cities was generally favourable. They were equal with males regarding inheritance, they had full business capacity in their own right, they were equal in courts as plaintiffs and witnesses, and they might have right of citizenship regardless of their husbands. Their work and economic activity was important both for their families and for the city as a whole, which was probably the most important reason for this equality between the sexes in medieval Slavonian cities. Consequently, this must have been reflected in the sphere of marital law as well.[24]

However, there was one case in which women were punished differently from men. They could be punished also by the confiscation of their property, which was to be transferred to the ownership of their husbands. The law book of Ilok thus orders that a woman who is publicly known as a fornicator and adulteress (*uxor fornicaria et adultera*) cannot freely dispose of her property after her death; that is, if she takes to bed because of sickness, she is not allowed to compose a will, instead all her property must go to her husband.[25] That the property of an adulterous wife belonged to her husband is attested also by a case noted in the town books of Varaždin. In 1592 Thomas Geček requested from the court that Sigismund Pálffy hand over to him the things belonging to his wife, who was expelled from town because of her adultery, things which had been appropriated by Sigismund. The court decided that Sigismund should hand this property over to Thomas after Thomas took an oath that it really belonged to his wife.[26]

---

[22] *PMV*, I, 63–64, 69–70.

[23] *PMV*, I, 447, 449–50.

[24] For more details, see Marija Karbić, 'Obitelj u gradskim naseljima srednjovjekovne Slavonije (13.–16. st.)' (Family in the urban settlements of medieval Slavonia (from the thirteenth to the sixteenth century)) (unpublished master's thesis, Sveučilište u Zagrebu, 2001), pp. 72–88.

[25] *SCI*, lib. IV, cap. XIII, p. 68. A similar rule, which speaks of losing proprietary rights because of adultery, is also known in other tavernical towns. Thus in Buda an adulterous woman was not allowed to request her *Morgengabe*. See Néda Davori Relković, *Buda város jogkönyve* (The law book of the city of Buda) (Budapest: Stephaneum, 1905), p. 133.

[26] *PMV*, II, 156.

An extremely uncompromising attitude towards adultery did not mean the same attitude towards concubinage. In the medieval Slavonian cities concubinage was not treated as something desirable but it was tolerated. A foreigner settling in Gradec with a wife had to swear an oath together with at least seven witnesses that she was his lawful wife.[27] Nevertheless, the sources frequently mention concubines and their partners who did not incur any legal consequences because of their relationship. It also seems that they did not incur any social condemnation. Thus, in Gradec in 1356, the concubine of the physician Nicholas had a suit pending concerning some properties with Blaise, a merchant, and it does not seem that her status in any way influenced the way she was treated in the court.[28] In Varaždin in 1455, Ursula, the concubine of Paul and the mother of his son, is frequently mentioned in the land registry in the same manner as other landowners.[29]

In those trials in which concubines are mentioned in criminal cases, they are not accused because they are concubines, but for other reasons. Margaret, concubine of the late George, was sentenced to banishment from Gradec because she was a procuress, and not because she was a concubine.[30] Emeric and his concubine, Helen, were sentenced to the amputation of one ear and banishment from Gradec because of theft, and not because of their relationship.[31] The city records of Varaždin mentioned a similar case. In 1460 Stephen, brother of Jurg, and his concubine were accused of theft. They had to swear an oath that they did not commit that crime. However, in the records of that case, no negative opinion regarding their concubinage is noted.[32]

Concubinage was very widespread in certain periods. The precondition was, of course, the existence of a great number of single men in a city. The most extreme case is recorded in Varaždin at the end of the sixteenth century. This was the period when the number of soldiers in the city greatly increased, because of the Ottoman wars and the beginnings of the organization of the so-called military border.[33] In that

[27] *MCZ*, IV, pp. xxv–xxvi.

[28] *MCZ*, IV, 72.

[29] *MCV*, II.1, 18.

[30] *MCZ*, VII, 72 (1454).

[31] *MCZ*, VII, 366–67.

[32] *MCV*, II.1, 150.

[33] During the sixteenth century, great parts of the kingdom of Hungary-Croatia fell under the rule of the Ottoman Empire. In order to prevent any further Ottoman advance, on the remaining territory a series of military districts called military borders was established. Varaždin became the centre of one of them, which was named the Slavonian Military Border. For further information, see Robert A. Kann, *History of the Habsburg Empire 1526–1918* (Berkeley: University of California Press, 1980); *From Hunyadi to Rákóczi: War and Society in Late Medieval and Early Modern Hungary*, ed. by János M. Bak and Béla K. Király (Brooklyn: Brooklyn College Press, 1982); Milan Kruhek, *Krajiške utvrde i obrana hrvatskog kraljevstva tijekom 16. stoljeća* (The frontier fortresses and defence of the Kingdom of Croatia

period there was a great shortage of maidservants in Varaždin, because most of them had left their profession and become the concubines of soldiers in the fortress.[34]

There are also examples, in the sources, of priests taking concubines. Fabian of Svetačje kept up a relationship with a certain Dorothy and was therefore excluded from the cathedral chapter of Zagreb. In the decision about his exclusion, it is emphasized that Fabian appeared together with Dorothy in public, which indicates that ecclesiastical authorities were moved to action exactly because of the fact that his behaviour was open. Also the relative benevolence of the authorities is evident from the fact that Fabian was given the opportunity to be readmitted to the chapter if he broke off his relationship with Dorothy.[35]

The case of the concubine of Mark Boniolo shows that this kind of relationship was not always harmonious. Mark's concubine, who was at the same time his maidservant, sued him in the city court for unpaid salary.[36] The circumstances of their relationship are not clear from the document, but several points may be taken as certain. The first is that their relationship was public, and it does not seem that either party objected to it. On the other hand, it is obvious that they did not have the same idea of what this relationship was to include. Mark obviously meant that he did not have to pay extra for her work in the house because she was his concubine, but the concubine evidently wanted to keep her financial independence. Unfortunately, the outcome of the suit is not known, and thus we cannot see what public opinion was in this matter.

As is visible from the cases mentioned, concubines mostly came from the lower classes, in the first place from the stratum of maidservants. In their case two basic preconditions facilitated the development of these sorts of relationships. The first precondition was that the maidservants were usually girls originating from the outside of the town, and thus separated from their families, which left them less protected, but also less controlled. The second precondition, closely connected with the first, was that they were by their work bound to live in the house together with their masters, often single men.

Extramarital sex existed in medieval Slavonian cities and was in theory very much condemned. However, in practice these offences were less rigorously punished

---

during the sixteenth century), Biblioteka Hrvatska povjesnica, Monografije i studije, 1 (Zagreb: Institut za suvremenu povijest, 1995).

[34] *PMV*, III, 198; Rudolf Horvat, *Povijest grada Varaždina* (A history of the city of Varaždin) (Varaždin: Hrvatska akademija znanosti i umjetnosti (Croatian Academy of Sciences and Arts), 1993), p. 134.

[35] *MCZ*, II, 492–93. Punishment of loss of service was envisaged also by decree of the Council of Basel from 1435, by which it was decreed that the clerics who did not leave their concubines within two months of the publication of the decree would be suspended. See James A. Brundage, *Law, Sex, and Christian Society in Medieval Europe* (Chicago: University of Chicago Press, 1987), p. 537.

[36] *MCZ*, IV, 87, 89, 91, 93.

than might be suggested by codified law. A similar dichotomy may be observed also in the cases of children born in such illegal relationships. These illegitimate children faced a different set of obstacles to their legitimate peers. They could not be members of a guild. For example, in the statutes of the guild of locksmiths, smiths, spursmiths, and swordsmiths of Gradec from 1521 it is stated that a master to be has to be 'from honourable kin and born and brought forth from lawful wedlock' (*de honesta parentela et ex legitimo thoro ortus ac progenitus*).[37] Their fathers were legally prohibited from leaving them any hereditary goods even by will.[38] However, the fathers of illegitimate children apparently took care of their benefits.[39]

It seems that the judicial practice shows some tendency towards the re-establishment of order, even at the expense of customary law. Thus the authorities were prone to forgive shortcomings and pardon the offenders in cases when the offended side wanted to forgive and continue with life as before. Order was usually thus re-established, and because of that it was better to forget about a crime, since the punishment would only occasion fresh disorder in the town.

[37] *MCZ*, III, 211. For other examples, see Rudolf Horvat, *Povijest trgovine, obrta i industrije u Hrvatskoj* (A history of trade, craft, and industry in Croatia) (Zagreb: AGM and Hrvatska gospodarska komora, 1994), pp. 200, 202, 206.

[38] Cf. *SCI*, lib. IV, cap. XV, p. 69, and Zdravčević, 'Iločki statut', pp. 110–11.

[39] For example, see the case of Peter Wolfgang Vragović from Varaždin, who legitimized his illegitimate children and left them his goods, to the detriment of and in spite of the protests of his brother and other relatives (*PMV*, II, 27, 141–42).

Ex Libris Eugeen A. Katkovsky